THE NATURAL MORAL LAW ACCORDING TO
ST THOMAS AND SUAREZ BY WALTER FARRELL, O. P.

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The Natural Moral Law

ACCORDING TO
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BY

WALTER FARRELL, O.P., S.T.Lr.

A THESIS, BEING AN EXAMINATION INTO THE TWO CHIEF CHRISTIAN THEORIES OF LAW AND A DETERMINATION OF THE VALUE OF EACH, PRESENTED TO THE FACULTY OF THEOLOGY OF THE UNIVERSITY OF FRIBOURG, SWITZERLAND, TO OBTAIN THE DEGREE OF DOCTOR.

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ERRATA

7	Line 22	*for* regulated *read* regulate.
13	5	„ preceeding *read* preceding.
29	24	„ be *read* by.
29	25	„ providency *read* providence.
37	21	„ and at least *read* at least.
50	2	„ si *read* is.
57	12	„ excerise *read* excercise.
71	3	„ oenffder *read* offender.
76	4	„ , *read* .
79	27	„ proven *read* proved.
90	19	„ tuaem *read* autem.
98	20	„ thesee thre *read* these three.
107	3	„ 1 *read* refers to note 1, p. 106.
117	15	„ varability *read* variability.
118	8	„ varability *read* variability.
145	19	„ entive et unive *read* entis et unius.
145	24	„ attributur *read* attribuitur.
145	26	„ neqaquam *read* nequaquam.
158	Last line	„ Lethielleus *read* Lethielleux.

The following corrections should be made in the foot-notes:

Page.	Note.	Correction.
2	3	*del.* p. 8.
5	2	*for* f *read* q.
6	3	„ Ie. *read* Ib.
10	1	„ Of. *read* Cf.
24	3	*should read* Ia 2ae, q. 91. a 1, et 1a, q. 14, a. 4.
	4	*for* 24 *read* 16.
32	3	„ 31 & 32 *read* 23 & 24.
33	1	„ 35 & 36 „ 27 & 28.
37	2	„ 34 & 35 „ 25 & 26.
38	2	„ 45 & 46 „ 35 & 36.
42	2	„ 45 & 46 „ 35 & 36.
44	3	„ 14 „ 7.
45	2	„ 1um „ Ium.
	4	*This should be on page* 46.
50	4	„ Ib. *read* Ib. 6.
51	1	„ lib. 4 *read* cap. 4.
55	2	„ 64 & 65 *read* 53 & 54.
58	2	„ 63 & 64 „ 52 & 53.
59	2	„ 64 & 65 „ 53 & 54.
	3	„ 67 & 68 „ 56 & 57.
61	1	„ a. 28 et 32 *read* a. 2, 28 et 32.
63	3	„ 75 „ 62.
	4	„ 66 „ 54.
64	3	„ 75 „ 62.
	4	„ 61 „ 49.
	1	„ 65 „ 53.
	2	„ 13 „ 6.
67	4	„ lib. II 8 *read* lib. II, cap. 6, 8.
94	1	„ II Sent. d. 24, a. 3, ad. 2 *read* II Sent. d. 24, q. 3, a. 3, ad. 2.
95	3	„ p. 87, note 2 *read* p. 88, note 1.
95	4	„ p. 87, note 2 *read* p. 88, note 1.

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THE NATURAL MORAL LAW

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INTRODUCTION

THE subject of the Natural Moral Law is attracting a great deal of attention to-day in the fields of Catholic philosophy and theology as well as in the natural sciences, such as Anthropology. This statement is borne out by a glance at any of the excellent European Philosophical and theological reviews of to-day, for example " Ephemerides Theologicæ Lovanienses " (April, 1929) and " Revue Des Sciences Philosophiques et Theologiques " (July, 1929). As for the natural sciences, the author has had the opportunity of hearing discussions on this subject by eminent scientists in America and of noting the seriousness of the question from their point of view.

Reasons for this interest are not hard to assign. On the part of Catholic philosophy and theology, the return to the scientific thoroughness of the early Schoolmen which followed naturally on the movement back to Scholasticism, particularly to the doctrine of St. Thomas, has undoubtedly had a great part to play. The advance in scientific knowledge and investigation, giving concrete opportunities of applying and testing existing explanations of the Natural Moral Law, has also been a strong factor in the rejection of much that was little more than unwarranted guesswork and in the earnest effort to put the whole question on a solid basis.

Another element that has added, perhaps unconsciously, to the interest of this question is the phenomenon of peoples abandoning Christianity, and sometimes even turning to rank atheism, yet maintaining a definite moral code, frequently in open violation of all laws of logic. This has prompted the question as to whether this morality was the result of an unconscious Christian heritage or whether it flowed from nature itself, from a source that no amount of rhetoric could influence.

Whatever the reason for it, the interest is beyond doubt a healthy one and very sadly necessary ; for the question of the Natural Moral Law is in urgent need of solution. Ignorance of the nature of this law has gone to incredible lengths outside the Church ; and this not only among the people of ordinary education, but among the most learned. It is only such ignorance that allows Dr. Robert Andrews Millikan, winner of a Nobel prize and certainly one of the greatest scientific minds in America to-day, to hail as marvellous discoveries truths that have been commonplace in the Church from the beginning of the Christian era. As he is quoted in " The Literary Digest " for October 12,1929, he makes such statements as these : " The ancient world, . . . believed that God, or Nature, or the Universe, whichever term you prefer, was a being of caprice and whim. To-day, however, we think of a God who rules through law, or a Nature capable of being depended upon, or a Universe of consistency, or orderliness, and of the beauty that goes with order. This idea has made modern science, and it is unquestionably the foundation of modern

civilization . . . it is not merely the material side of life that this idea has changed. It has also revolutionized the whole mode of thought of the race. It has changed the philosophical and religious conceptions of mankind." etc. etc.

Among our own philosophers there is such a lamentable confusion of theories and opinions that the outsider can well be pardoned his lack of courage to investigate the problem. Leaving aside for the moment the differences between the older theologians, even neglecting all minor questions and difficulties, and considering only the very essence of the Natural Moral Law, we find a modern author[1], in the brief scope allowed to a philosophical textbook, obliged to quote these six opinions: (*a*) the Natural Moral Law is the Eternal Law; (*b*) it is the rational nature in itself; (*c*) it is a habit; (*d*) it is the intellect itself, the light of reason; (*e*) it is the dictate of reason showing the good to be done; (*f*) it is the act of judgment of the reason.

Nor is our task the mere selection of one of these six opinions; the author pauses just long enough, in enumerating these theories, effectively to refute each one. Evidently it is time that some definite, well established ideas be proposed on this subject. Fortunately such ideas have been proposed recently and are still being proposed to-day.

It is not the purpose of this dissertation to add one more theory to the many now flourishing.

1. L. Lehu, O.P., Philosophia Moralis et Socialis. p.239.

The aim of this work is not to create, expose or defend a new theory; it is rather to dig out the explanation of St. Thomas from the mass of commentaries and interpretations that are threatening to smother it, to set forth the explanation of St. Thomas, as given by Thomas, and, as far as possible, in the words of the Angelic Doctor.

With this end in view, the principal sources used in this dissertation have been the works of St Thomas himself. The method followed has been

(1) To give as clear and thorough an explanation as possible of St. Thomas' doctrine on law in general and on the Eternal Law; as these two contain the principles of his teaching on the Natural Moral Law and an understanding of them is quite essential to a full grasp of the Natural Moral Law.

(2) To expose the theory of Suarez on law, the Eternal Law and the Natural Moral Law, criticizing the first two immediately, the third only at the end of the last chapter when the doctrine of St. Thomas has been fully explained. The purpose of examining the doctrine of Suarez was to further clarify that of St. Thomas and to emphasize the essential elements of the Thomistic teaching by contrast with Suarez' theory which is quite diametrically opposed to it.

(3) To expose St. Thomas' doctrine on the essence of the Natural Moral Law and on the problems more immediately connected with this key problem, not going contrary to

the traditional Thomistic doctrine, but rather going farther, at times, in the same direction.

It is a well known fact to students of St. Thomas that the Angelic Doctor had, in all its perfection, that scholastic characteristic of brief, comprehensive, exact and very profound definition. This required a complete grasp of the subject as well as the truths immediately connected with it, along with an exact terminology whose meaning was known to the learned world. As a result of this a comprehension of what is contained in these brief, simple looking definitions, can be had only on the same terms that were pre-requisites of their formulation. This is the explanation, perhaps, of why a learned world that has lost not only the terminology but even many of the essential truths, condemns these profound syntheses as vague generalizations. What was once so clear to the great thinkers of Scholasticism has become almost unintelligible to the twentieth century.

Perhaps the best expression of the aim of this dissertation would be to say it hopes to bring out some of the intellectural treasures that St. Thomas put into his profound definitions and explanations of law, the Eternal Law and the Natural Moral Law.

CHAPTER I.

GENERAL NOTION OF LAW.

THE etymological derivation of the word "LAW" is uncertain. The three most famous derivations of the word are those adopted by St. Thomas, St. Isidore and St. Augustine who derive the word respectively from "ligare," "legere" and "eligere" [1]. Thus St. Thomas, in his derivation, stresses the essential binding power of law; St. Isidore its permanency; and St. Augustine the prudence with which laws should be framed. Which of these derivations is correct is a question of little importance; certainly each of them expresses some quality which law enjoys, and so all are quite plausible.

Whatever its derivation, the term "law" has been used in widely different senses. In this dissertation we shall make a definite distinction between laws properly so called and improperly so called. Laws properly so called we shall restrict to those laws which regulate the moral actions of men; all other so called laws we shall consider as laws improperly so called, such as physical laws, laws of art, etc., all of which will be outside our consideration.

Taken in this sense, the existence of law is evident from a glance at any modern government. The necessity of law is no less evident from our daily experience. What is not so evident is the

1. 1a2ae, q. 90, a.1.
St. Isidore, Originum libri, lib.II, c.10.
St. Augustine, Quaest. XX de Levitico.

reason for this existence of law, the *reason* for its necessity, the essential nature of law itself. At least the solution of these problems is not easy for the man outside the Church. For the Catholic these answers are logical, inevitable corollaries deduced from basic Catholic truths, from the teaching of the Church on the creation and government of the world and on the nature of man.

From the Catholic principles—that the world was created and is governed by One, Personal, Supremely Intelligent God[1], and that man is a rational animal[2] *i.e.* possessing an immortal soul and enjoying reason and free will, yet defectible because he is a creature—we have, as simple deductions, all the essential notions connected with law. Let us consider the Catholic teaching for a moment.

We have held before our eyes as the creator of the world this One Personal God, supremely Intelligent[3]. What mode of action could be expected, or rather demanded, from such a Supreme Being as He sets about His work of creation and consequent government of the world. At the very least He would have a definite plan of this creation in His mind before beginning the work[4]. We would demand this much from an intelligent man.

Granting this much, which cannot be denied, it follows that in the mind of God there was a very definite choice of means to attain the end that He

1. 1a,q.4, arts. 1,11,3; Ib. q.44,a.1; Ib. q.103,a.1et a.3.
2. Contra Gent. Lib. II, cap. 56-72; 1a, q.75, proemium; Ib.q.78,a.1.
3. Confer p.8 note 1.
4. Contra Gent. Lib. III, cap. 1 et 2; 1a2ae,q.93, a.1 in initio.

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had in view in creating; a choice of efficacious means, rules of guidance of His work to its end, decision as to the manner in which He would direct the work to its end. We must see at once the marvellous scope of these means to attain the end of creation for they must extend to every created thing. At the same time we see clearly how they must be adapted to the diversity of natures created by God, how each creature must be directed to the great end in a manner suitable to the nature given it by the Creator.

These conclusions from the nature of the Creator contain all the essential notions of the Eternal Law, the source of all law; and at the same time they contain the explanation of the existence of all laws among men, as will be apparent from the following pages of this chapter.

From the Catholic doctrine on man we have conclusions no less pertinent. The Church teaches that man is a creature of body and soul[1], the king of creatures in this world because of his spiritual side, because of his great gifts of reason and free will. Yet, for all that, still a creature, capable of failure, defectible[2]. It is evident then that man, being a creature, a part of this work of creation which was intelligently planned for an end, also has some very definite part to play in creation, some definite end to attain. It is no less evident that being by nature defectible, he needs guidance, helpful rules of conduct to assist him in reaching his end.

1. Concil. Toletanum,XV, 688, Protestatio de Trinitate et Incarnatione, Denziger 295, p.133.
2. 1a,q.63, a.1 corp.

This direction of man must, first of all, be a direction of reason since man is a creature of reason, capable of knowing the end and of choosing the means to the end. Because he enjoys free will man can use his freedom to follow this guidance of reason or he can abuse his liberty and refuse to follow—so the compelling force behind these guiding rules must be moral, not physical. In a word, man can be guided to the end for which he was created only be a moral law, a rule of reason given to reasonable creatures and carrying with it a moral obligation. God must have selected some reasonable, moral rules of conduct, applicable to all men—for human nature is everywhere the same—yet at the same time within the reach of every individual human being, known or at least capable of being known by every man. These rules of conduct we know as the Natural Moral Law.

A few more very obvious conclusions from these fundamental truths could be easily drawn, conclusions which would be no more than the short finishing strokes that would complete the miniature of law as contained in Catholic teaching. But the deductions we have already made are quite sufficient for our purpose in this dissertation, as they contain the essential notions of law as far as we shall treat of them.

It is to be noted that this guidance, these rules have the one ultimate source and are all for the one ultimate purpose of helping man to attain the end for which he was created, of guiding him that he might not select means which would rather

divert him from this end. Or, to put the same truth in other words, all true law is for the express purpose of protecting man's liberty, not of limiting or destroying it[1] ; for liberty, in its ultimate resolution means nothing more than a choice of means leading *to* an end[2].

This obvious inclusion of all the essential elements of law in fundamental truths perhaps explains the sporadic nature of the writings of the Fathers on this subject, none of whom wrote a complete and ex-professo tract on laws. It was unnecessary and there were so many other questions which demanded immediate attention and explanation. It remained for the Scholastics (perhaps Alexander of Hales was the first) with their scientific treatment of all doctrine, to give the question exhaustive treatment.

St. Thomas had breathed deeply of this scientific atmosphere ; at the same time he had a full knowledge, a profound intimacy with the basic truths upon which law is founded. It was with such a background that he wrote his classical definition of law, which we have only to quote and explain to give a full exposition of Thomistic teaching on law, But before proceeding to this definition, let us note that we are speaking of law in a still more restricted sense than moral law in general. Law, strictly taken, can be spoken of in three ways : as it is in him who makes the law, the legislator, as in the one regulating ; as it is in him

1. Prummer, Manuale Theologiæ Moralis, Vol.1, 144,p.101.
2. 1a,f.62, a.8, ad 3 um.

for whom the law is made, the subject, as in the one regulated : finally as it is contained in some permanent external medium, for example in a book or code of laws[1]. In this definition, St. Thomas is speaking of law in the first sense, as it is in the legislator as in the one regulating. In this sense law is " a certain ordination of reason for the common good, made by him who has care of the community and promulgated "[2].

I. " *A certain ordination of reason.*" The word " ordination " shows us that St. Thomas is speaking of the practical intellect as opposed to the speculative intellect ; ordination is the work of prudence, which is an act of the practical intellect[3]. That is, law has to do with things to be done rather than with things merely to be known[5]. It is the term of this act of the practical intellect, not the act itself, the proposition of the practical intellect corresponding to the proposition of the speculative intellect, that St. Thomas means by this first phrase of his definition[4].

But not every proposition of the practical intellect is a law. This would include counsels and particular precepts, *i.e.* precepts given to individuals by any superior. This proposition of the practical intellect is a precept, *i.e.* the imperium of the intellect commanding that which the will has chosen ; an act essentially of the intellect,

1. 1a2æ, q.90, a.1 ad 1um ; Billuart, Tract. de Legibus, Diss.I,art.1.
2. 1a2æ,q.90,a.4
3. 2a2æ,q.47,a.8 ; Ie.a.2.
4. 1a2æ,q.90,a.1 ad 2um ; Ib.q.93,a.1 corp.
5. 1a, q.79, a.11.

since it is ordinative and regulative, but implying a previous act of the will from which it has its motive power[1]. Since precept deals only with the means to the end, not the end itself, it is apparent that St. Thomas limits law to the ordination of means to an end—" *ad* bonum commune "[2].

This point, namely of precept being essentially an act of reason, must be particularly stressed for it is the characteristic which distinguishes the teaching of St. Thomas on law from the voluntarism of Suarez. We shall treat of this more fully in our third chapter, in criticising the doctrine of Suarez ; for the present it will be sufficient to note that St. Thomas put this doctrine in his usual brief and profound way when he said that " lex . . . est enim preceptum commune "[3]. With a slight notion of what St. Thomas meant by precept, this short phrase also gives an indication of another characteristic of the Thomistic doctrine on law, which will also be brought out more clearly as this dissertation proceeds ; that is, that the primary purpose of law is that it regulated human actions. It is above all a rule or norm of action since it is a precept and so ordains to action[4] ; the idea of obligation, though of course essential, is not the element particularly stressed in the thought of St. Thomas ; it is rather a corollary from the nature of precept.

To be law this dictate of practical reason

1. 1a2æ,q.17,a.1 corp et ad 1um ; 2a2æ, q.47,a.8 corp. et ad 3um.
2. 2a2æ,q.47,a.8 ; Ib. q.50 ; 1a2æ,q.90, a.4
3. 1a2æ,q.98,a.6 ad 2um.
4. Ib. q.17,a.1

must be efficacious, at least in causing an obligation on the part of the subject, which is again only saying that it must be a true precept[1]. It must be firm and perpetual in the sense that it does not cease with the death of the legislator, nor is it made only for present but also for future subjects. The reason for this is that the community, for which the law is made, is considered to be firm and perpetual[2]. St. Thomas himself indicates this when he says: "Constituitur enim communitas civitatis ex multis personis, et ejus bonum per multiplices actiones procuratur; nec ad hoc instituitur quod aliquo tempore modico duret, sed quod omni tempore perseveret per civium successionem, ut Augustinus dicit"[3].

The statement that law is an ordination of reason is readily proved by St. Thomas[4]. The distinguishing mark between the acts of man and the brutes is that man's actions are always ordained to an end by man himself; they proceed from the will, under the attracting influence of the end, but are human acts, *i.e.* distinctively from man, only in so far as they are directed, ordained to this end by reason. In other words, human acts are essentially deliberate. It is the reason which does that which the brutes cannot do—see the end, judge the means to that end and ordain and direct these means to the end in view; it is the

1. Quodlib. 5, art.19; confer. Lottin, "Definition classique de la loi" p. 272.
2. Billuart, Tract, de Legibus, Diss. I, art.1.
3. 1a2æ,q.96,a.1 circa finem.
4. Ib. q.90,a.1

reason that makes human acts really such, in a word it is the reason which is the first principle in human acts, as human acts. This ordering of actions to an end is precisely the chief work of law; we have then a perfect parallel between the work of reason and of law so that it follows that law is essentially a thing of reason[1].

This argument is advanced in a metaphysical way by St. Thomas on the basis of the principle that what is first in any order or genus is the rule or measure of that order[2]. Applying this principle to actions, we see that the end is the first principle of every action; without the end no action would be placed and consequently, in accordance with this principle, all actions are judged by the end, according as they do or do not lead to the attainment of the end[3]. Bringing this principle down still further to the actions of man, we see that for a specific determination of this rule or measure of human actions, we must determine definitely what is the end of human actions.

Since the end of every nature is its ultimate perfection, or in other words the perfection of its form, and the form of human nature is the rational soul, the natural end of man will be the perfection of his rational nature: "Bonum cujusque rei est in hoc quod sua operatio sit conveniens suae formæ. Propria autem forma hominis est secundum quod est animal rationale. Unde oportet quod operatio humana sit bona ex hoc

1. 1a2æ,q.90, a.1
2. Ib.

quod est secundum rationem rectam "[1]. All the actions of man will be judged good or bad according as they lead to this end or detract from its attainment. But this end, precisely as it is the rule or norm of human actions, is in reason (finis in intentione), it is the ideal of his nature for which he is striving. His acts are good or bad, then, according as they are in accordance with this right reason or opposed to it, according as they are reasonable or unreasonable[1]. Reason, as containing the end of human actions (finis in intentione), is thus the principle of human acts ; and, like the first in any order, it is the norm of that order, the rule of human actions. Since this is precisely the work of law, it follows that law is a thing of reason.

This argument brings out very strongly the opposition of St. Thomas to those who maintain that law is essentially the work of the will. It is true that some movement of the will is necessary, namely election, as we shall show more exhaustively later on ; and, at least as regards positive laws, also a movement of application. But no such movement of regulation or measuring, such as pertains to the essence of law, is attributed by St. Thomas to the will[2]. Indeed the will is incapable of such a movement for it is a *blind* faculty ; so for an act of the will to become a law it would be necessary for the will to have both the movement and the regulation of the intellect,

1. In II Ethicorum, lect.2. Of. 1a2æ,q.18,a.5 ; Ib. q.100, a.1
2. 1a2æ,q.17 art.1 corp et lum ; Billuart, l.c. Diss.I,art.1.

while the intellect needs only the movement of application from the will[3]. St. Thomas himself tells us that the will unregulated by the intellect is rather wickedness than law[4]. It is the opinion of some of the other authors, certainly Sylvius and perhaps Billuart, that even this movement of the will is not required for the efficacy of the Eternal Law[4]. But we will touch on this question in the following chapter.

St. Thomas proposes another argument to prove his position ; an argument which shows more clearly the part played by the will in law, as it is drawn from his treatment of the acts imperated by the will[1].

In the first article he asks whether " imperium " or command is an act of the reason or of the will. His answer is that essentially this " command " is an act of the reason because it ordains him, to whom the command is given, to action; and this ordination is by way of intimation or denunciation, which is essentially an act of the reason. There is however an act of the will presupposed, by whose power the reason moves to the exercise of the act. Applying this teaching to law, we find that to give precepts and to prohibit, in other words to command, is the work of law ; as has already been proved, to command is the work of the reason, so that law must pertain essentially to reason, though it presupposes a movement of the will by the

2. Cajetan in 1am2æ, q.90, a.1 ad 3um.
3. 1a2æ, q.90, a.1 ad 3um.
4. Billuart, l.c. ; Sylvius in 1am2æ, q.90, a.1, concl. III.
1. 1a2æ, q.17, a.1.

power of which the reason moves through the imperium to action[1].

A glance at St. Thomas' ex-professo treatment of "imperium" leaves no doubt as to the part he assigns to the will in this act. It is self evident that ordination, taken precisely as such, *i.e.* the orderly arrangement of things in view of an end to be obtained, is the work of intelligence. Consequently it is reserved to reason; it is impossible of accomplishment by a blind faculty such as the will. The question as to the possibility of this act being from the will arises when we add to this ordination the idea of command, the idea of movement ordered, as St. Thomas puts it, "intimando vel denuntiando," *i.e.* by effective command.

The will is unquestionably the first principle of all free movement in man; but St. Thomas leaves no room for equivocation when he develops his thought by saying: "Sed ratio potest aliquid intimare vel denuntiare dupliciter: uno modo absolute; quæ quidem intimatio exprimitur per verbum indicativi modi, sicut si aliquis alicui dicat: Hoc est tibi faciendum. Aliquando autem ratio intimat aliquid alicui, movendo ipsum ad hoc; et talis intimatio exprimitur per verbum imperativi modi, puta cum alicui dicitur: Fac hoc"[2]. That is, not only the ordination contained in "imperium," but also the movement of effective command is essentially the work of the

1. 1a2æ, q.90, a.1 Sed Contra; Ib. q.17,a.1
2. 1a2æ, q.17, a.1 corp et ad 1um.

reason. The difficulty of the will is solved by St. Thomas in the same way that he solves the difficulty of the reasonableness of the election of the will; *i.e.* just as the election participates the preceeding judgment of the reason and is thus reasonable, so imperium of the reason participates the preceding election of the will and in this way has the power to move. We shall treat this question more exhaustively in our third chapter; here it is only necessary to insist on the true thought of St. Thomas.

II. "*To the common good.*" This is the second part of St. Thomas' definition of law. It refers to the common good of the community, which good is defined by St. Thomas as the happiness of that community[1]. This is only another way of saying that the common good of the community consists in the attainment of its final end, *i.e.* in the perfection of the form of that community since the good of every nature is in the perfection of its form[2] and a society is a moral being or nature.

The final end of man is his happiness; a supernatural happiness it is true, but not all communities have to deal with leading man to his supernatural end directly. Nevertheless they have at least to do with the attainment of his secondary ends of natural or temporal happiness, which are a means to the supernatural final end[3]. As law is primarily an ordination or regulation of human

1. 1a2æ,q.90, a.2.
2. II Ethic. lect.2; cf. 1a2æ, q.18,a.5; Ib. q.1 a.5.
3. Gonet, Manuale Thomistarum, Tract. VI, cap.1. p. 245.

acts to an end, it follows that it should deal above all with the direction of these acts to the supreme or final end. That this is the purpose of law is proved from the common consent of men who immediately protest the enforcement of a law that is against the common good. It can also be shown by induction, by a momentary consideration of different laws, bearing in mind the fact that the common good can be obtained either directly or indirectly, *i.e.* by benefiting the community immediately or mediately by benefiting certain individuals[1].

St. Thomas proves that the common good is the end of law, the reason for its existence. Law pertains to that which is the principle of human acts—reason—from the fact that it is a rule and measure of these acts, as we have already shown. Just as reason is the principle of human acts, so also in the practical reason itself there is something which is the principle with respect to everything else ; hence it is to this principle of principles that law must principally and chiefly pertain. This principle of principles, the very first principle in things to be done, with which the practical reason deals, is the final end of man, happiness or beatitude. Further, since every part is ordained to the whole, as the imperfect to the perfect, and since every man is a part of a perfect community, it is necessary that law properly deal with the order to the common happiness[2].

1. Billuart, Tract. de Legibus, Diss. I, a. 1.
2. 1a2æ, q.90, a.2.

It is to be noted that the common good mentioned here is that of a perfect community[1], which may be defined as a society, sui juris, having in itself its own sufficient means to attain its proper end and independent, in its own order, of every other society[2]. The reason for this restriction of law to a perfect society is pointed out by St. Thomas himself when he says that after all man is a part of society (being by nature social) and it would be unreasonable to invert the welfare of the whole to that of the part, just as it would be unreasonable to order the perfect to the imperfect. It is of a perfect community that man constitutes a part[3].

III. "*By him who has care of the community.*" In this third part of his definition, St. Thomas points out the author of law. No private person has the right or power to legislate for the whole community ; there is no reason why this individual's command should be imposed on the community rather than the command of any other member of the community. Only the community itself, its vicar or he who has care of it, has the right and power to legislate. Law first and principally has to do with the ordination to the common good or to the final end ; and it is the sole right of him to whom the end is proper to ordain the means to that end[4]. Here again St. Thomas is insisting on the rationality of law. It is

1. Ib. art.3 ad 3um.
2. Prummer, Manuale Theologiæ Moralis, 143, p.100.
3. 1a2æ, q.90, a.2.
4. Ib. a.3

not something extrinsic imposed by the will of the superior; it is the regulation of actions to an end and so is nothing more than the expression of right reason as regards the way in which this end is to be obtained, the expression of the reason of the community for which the law is made.

Cajetan points out here that St. Thomas uses two expressions, namely, "the vicar of the community" and "he who has care of the community." St. Thomas does not use these as synonymous terms; rather in the use of the former he is speaking in a restricted sense of human legislators, in the use of the latter, he is speaking universally so that the term is universally true, even being applicable to the supreme Legislator, God[1].

IV. "*Promulgated.*" This fourth and last part of St. Thomas definition of law is inserted in the definition, says Billuart[2], just as "obscurity" is included in the definition of faith; that is, it does not pertain to the essence of law but is a necessary condition, a proprium[3]. This is easily seen because law would hardly oblige men if they did not know the law; which is precisely the purpose of promulgation—to make the law known. That it does not pertain to the essence of law is equally evident from our consideration of law as a rule or measure; promulgation is rather the application of this rule or measure than a constitution of it[4].

1. Cajetan, in Iam2æ, q.90, a.3.
2. Billuart, Tract. de Legibus, Diss. I, a.3 ad 2um.
3. Ia 2æ, q. 90, a.4.
4. Ib.

Philosophically this same truth can be proved by a consideration of the nature of essences[1]. It is only required that the essence have the power or aptitude required of the particular nature which it constitutes. Law would have this essential aptitude to regulate and measure human acts before its promulgation or without it; promulgation merely completes the law "in actu secundo," or in other words, it brings it down to actual application, makes it actually oblige here and now. The discussion as to whether promulgation pertains to the essence of law is not of any great value as far as the obligation of the law is concerned. All agree that no man is bound by a law until it has been promulgated. But it may be of some utility in our discussion of the nature of the Eternal Law and the Natural Moral Law.

From this discussion of the definition of law, we see how law differs from a counsel. The latter carries with it no notion of strict obligation, such as is always to be found in law, and counsel can be given by a private person[2]. Thus too we see that law differs from a simple precept (one given to a particular person or persons) in three ways: law is given for the community, precept for particular persons; law is perpetual in the sense already explained, simple precept is temporal; law can be framed only by him who has care of a perfect community, precept can be given by any legitimate superior[3].

1. Billuart, l.c. "Dico" 2, "prob." 2.
2. 1a2æ,q.92,a.2 ad 2um.
3. Gonet, Manuale Thomistarum, Tract. VI, cap.1. p. 245.

The difference between law and a common or universal precept (given to the whole community) is not so clear. St. Thomas himself says: "lex . . . est enim preceptum commune"[2], thus plainly identifying law and common precept. But to-day the term precept does not seem to have the same general meaning attached to it by St. Thomas. There is a great variety of opinion on this question, which after all is not of such great importance. In the sense in which we use the word, this one distinctive mark seems to cling even to the common precept, namely that it is temporal in the sense that it ceases to oblige with the death of the superior; while law is negatively perpetual[3]. This question will come up again in our discussion of the precepts of the Natural Moral Law, but as St. Thomas clearly defines his terms in speaking of these precepts, we will have no difficulty in this matter.

St. Thomas assigns four "acts" to law[4]; but of course these are not acts properly so called, since law is neither a potency nor a habit and so cannot have an act[5]. The sense meant by St. Thomas is that these things pertain to the integrity of law. They are to be found in all laws; not necessarily at one and the same time, but in the sense that no laws exist that do not contain at least one or the other of these acts. They are:

2. 1a2æ, q.98, a.6 ad 2um.
3. Gonet, l.c.
4. 1a2æ, q.92, a.2
5. Billuart, Tract. de Legibus, Diss. I, art.5, Dico 2, nota.

to command, to prohibit, to permit and to punish[1].

We see at once that these four acts correspond to the different human acts. Thus good acts are commanded, bad acts are prohibited and punished, indifferent acts are permitted. It is to be noticed that "to oblige" is not mentioned among these acts of law; obligation is included in all four acts. Even permission carries with it the idea of obligation in so far as it obliges others not to interfere with the carrying out of the permission[2]. Indeed the notion of obligation is included in the very notion of precept and consequently of law, as St. Thomas tells us; "preceptum importat rationem debiti"[3].

The effect of law is to make men good, since its end is to ordain men to their final end[4]. But we must note with St. Thomas, that not all laws make men good, "simply speaking" that is, in the sense that the moral virtues make men good: every law makes men good, at least in the sense that it makes them fulfil one of their duties, that of obedience as citizens[5].

The division of law, which in its various ramifications need not concern us, can be summed up for our purposes as follows[6]:

1. 1a2æ, q.92, a.2
2. Billuart, l.c. a.5 Dico 2, Inst.
3. Quodlib. 5, a.19
4. 1a2æ, q.92, a.1
5. Ib. corp., Sed Contra, ad 3um et ad 4um; Billuart l.c. Dicol, nota.
6. Prummer, l.c. 146, p. 101-102.

1. Divine Law—whose immediate author is God:
   (*a*) Eternal Law—the reason of divine wisdom according as it is directive of all creatures to their final end.
   (*b*) Natural Moral Law—the participation of the Eternal Law in rational creature.
   (*c*) Divine Positive Law—contained in the Old and New Testament; promulgated by a special divine revelation.
2. Human Law—law framed by human authority:
   (*a*) Ecclesiastical—framed by ecclesiastical authority.
   (*b*) Civil—framed by civil authority.

CHAPTER II.

THE ETERNAL LAW.

A THOROUGH grasp of the Eternal Law is essential for a profound understanding of the Natural Moral Law. The same is true, indeed, of all laws, since the Eternal Law is the source from which all are derived[1]; but it is particularly true of the Natural Moral Law, not only because of its more immediate derivation from, but also because of its intimate connection with the Eternal Law.

From the point of view of derivation, the Natural Moral Law is derived from the Eternal through the medium of natural reason; while human laws are derived through the mediums of human reason and human authority[2]. But over and above this derivation, the connection between the Eternal Law and the Natural Moral Law is so intimate that St. Thomas could give a comprehensive definition of the latter by simply stating that it was a "participation of the Eternal Law in a rational creature"[3]; and this definition has been repeated as adequate by philosophers and theologians since the time of St. Thomas.

The connection of these two laws is often stated more strongly. For example the Natural Moral Law is called a "promulgation" of the

1. 1a2æ, q.93, a.3.
2. Gonet, Manuale Thomistarum, Tract. VI, De Legibus, cap.II, p. 248.
3. 1a2æ,q.91,a.2

Eternal Law[1]; or it is said that the ordination of all things, in the mind of God, pertaining to rational nature is the Eternal Law, the impression of this ordination on the mind of man is the Natural Moral Law[2]; or again, that the Eternal Law, passively taken, coincides with the Natural Moral Law[3]. There is then more than sufficient reason for including a thorough treatment of the Eternal Law in a dissertation dealing with the Natural Moral Law.

EXISTENCE.

The existence of such an Eternal Law is proved by St. Thomas from his doctrine on providence, on the divine intellect and his general tract on law. The world was created by God[4], an intelligent agent, consequently it was created for a definite end[5]. To attain that end it is governed, directed by God[6]. The order of the world to its end is no less a created thing than the material substance of the world itself; consequently, since this order is the result of an intelligent creation, it postulates a pre-existing plan in the mind of God, *i.e.* providence[7]. Providence, or the order of things to their end existing in the mind of God, being established, the existence of the Eternal Law is evident from a mere application of the

1. Gredt, Elementa Philosophiæ, Vol.II, p. 287.
2. Prummer, Manuale Theologiæ Moralis, Vol.I, 151, p.105.
3. Willems, Philosophia Moralis (Vol. III), p. 107.
4. 1a,q.44, a.1
5. Con. Gent. lib. III, cap. 1 et 2; 1a2æ q.93,a.1.
6. 1a, q.103; Con. Gent. l.c., cap. 64.
7. 1a,q.22, a.1

general principles of law laid down by St. Thomas and explained in our first chapter.

According to these principles, law is nothing more than the dictate of practical reason in the governor of a perfect community; the "ratio gubernationis" or "ratio providentiæ" as St. Thomas expresses it in other passages[1], has the essential elements of law[2]. The mind of St. Thomas is evident: he is considering providence as one phase of the government of the world, the actual execution of this providence as the other phase, as he has already said explicitly in the Prima Pars: "ad providentiæ duo curam pertinent: scilicet ratio ordinis, quæ dicitur providentia et dispositio; et executio ordinis, quæ dicitur gubernatio. Quorum primum est æternum; secundum temporale"[3]. The "ratio" or foundation of these two aspects, a dictate of the divine practical intellect, is the Eternal Law. St. Thomas is drawing an almost perfect corollary from his general treatment of law, as is evident from the article treating of the existence of the Eternal Law[4].

This law governing the universe is strictly a law and is eternal. Of the eternity there can be no question; the law exists in the mind of God, Who conceives nothing in time but has an eternal

1. 1a2æ, q.93,a.5; ad 3um; Con. Gent. l.c., cap. 115, 121, etc.; De Veritate, q.5,a.1 ad 6um.
2. 1a2æ,q.91,a.1 corp. et ad 1um.
3. 1a,q.22,a.1 ad 2um.
4. 1a2æ, q.91,a.1

concept[3]. The claim that this is a law in a strict sense will be abundantly evident when we treat of the essence of this law. One obvious difficulty may suggest itself here, namely that since the law is eternal, it could not possibly be promulgated. We have shown in Chapter I[4] that promulgation does not pertain to the essence of law, but rather to the application of law, or law "in actu secundo."

Even though the Eternal Law could not be promulgated from eternity, it would still have the essential notes of law from eternity. But there was certainly one element of promulgation present from eternity. Not, of course, on the part of the creature knowing the law, as the creature exists only in time[1]; but on the part of God. St. Thomas indicates this when he says that God ordered the government of things foreknown by Him[2]; this short phrase is a very concise summary of a very profound doctrine. After the decree of the divine will in which God knows all actual things, these things were present to the divine mind as they are in themselves, not through any mental species and for this reason the knowledge of God is said to be intuitive.

The eternity of God includes and far surpasses the whole extent of time. Thus the divine "intuitus" sees all things as they are present to the divine mind, as they are actually in them-

3. Ib. et 1a,q.14,a.4
4. vid. supra p. 24 seq.
1. 1a2æ, q.91, a.1 ad 2um.
2. Ib. ad 1um.

selves[1]. From the part of God, promulgation of this Eternal Law is quite perfect, as the creatures to whom the law is given are actually present to God; the defect comes from the part of the creatures, which do not know the law until they exist in time. As Billuart points out, the promulgation demanded of a law is not necessarily such as would make the law known to every subject actually existing but a promulgation by which the law can be known by a subject when he does actually exist. Thus human laws are promulgated not only for the present but also for the future citizens; in the same way, if man existed from eternity he would know the Eternal Law from eternity[2].

THE ESSENCE OF THE ETERNAL LAW.

Coming down to a more profound examination of the exact nature of this law, we find St. Thomas has defined it as: "ratio divinæ sapientiæ, secundum quod est directiva omnium actuum et motionum"[3]. To understand all that is contained in this definition, it is highly important to note that St. Thomas expressly wished to retain, in explaining the Eternal Law, all the essential elements of law which he brought out in Question 90 of this tract on law and which we have explained in our first chapter. So we read: "ratio gubernantis actus subditorum rationem legis obtinet, *servatis aliis quæ supra esse diximus de legis ratione.*"[4]

1. 1a, q.14, a.13 corpus et ad 3um.
2. Billuart, Tract .de Legibus, Diss. II, a.1
3. 1a2æ, q.93, a.1
4. Ib.

Thus the Eternal Law will be the product of the divine practical intellect; moreover a precept of that practical intellect and directive to the common good. All this is clearly brought out in the definition we have given: "recta ratio divinæ sapientiæ" indicates that the law is essentially of the intellect; in as much as it is described as "directiva actuum etc." it is clearly of the practical intellect as it deals with things to be done[4]; and it is a precept for it directs or ordains to an end[5]; that it is not only for the common good, but for the supreme common good or ultimate end, is also evident from the fact that it is a precept of the divine wisdom and the divine wisdom necessarily directs all its actions to the divine good, or final end of every created thing[6].

The one fault that might be found with this definition is its inclusion of all things, not merely of rational creatures. Yet rational creatures are alone capable of receiving law, *i.e.* strictly taken as moral law. This is not an oversight on the part of St. Thomas, as is clear from the rest of the question; and we shall show that St. Thomas expressly held that only rational creatures were capable of receiving laws strictly so called. But we will leave this discussion until we treat of the scope of the Eternal Law.

It will suffice for the present to get definite ideas of the essential notions contained in the

4. 1a, q.79, a.11
5. 2a2æ. q.47, a.8 1a2æ, q.17, a.1
6. 1a, q.19, a.2

Thomistic concept of Eternal Law. We have seen that St. Thomas considers the Eternal Law as an eternal precept of the divine practical intellect ordaining all things to the common or divine good and promulgated, incompletely, in eternity.

Before delving further into this question, we must note carefully the caution St. Thomas himself gives us in the Contra Gentes: "non autem sic præmissa intelligenda sunt quasi aliud sit divina bonitas et aliud divina essentia et aliud scientia rerum dispositionem continens, sed quia secundum hoc alia et alia est ejus consideratio"[1]. In God all things are one except the subsistent relations; these distinctions we are making are rather from the part of our manner of consideration than from the part of God, but they are necessary for even our feeble understanding of divine things.

We are now in a position to obtain a clearer and more profound knowledge of the Eternal Law by comparing it with the divine ideas and with providence. This comparison will show us the exact place of the Eternal Law in the divine mind.

The Eternal Law differs from the divine ideas in several ways easily perceived. Divine ideas are concerned solely with the ideal order, the merely possible, while the Eternal Law deals with things in the actual order, things definitely predetermined to exist. Consequently the divine ideas treat of things as possible of creation; the Eternal

1. Con. Gent. lib, III, cap. 80

Law deals with things to be governed. Finally the divine ideas have a certain distinction and plurality in as much as they have reference to the distinct natures proper to singular things; the Eternal Law, ordering all things to a common end, has an essential note of unity. These differences or their equivalents are noted by practically all the authors.

The distinction between providence and the Eternal Law is not so easily seen. St. Thomas' definition of providence as " ratio ordinis rerum in finem in mente divina existens "[1] may seem to come very close to his definition of the Eternal Law as " ratio divinæ sapientiæ, secundum quod est directiva omnium actuum et motionum "[2]. To add to this difficulty, Cajetan says briefly that divine providence, in as much as it is the measure and obligatory rule of all things has the " ratio legis "[3].

This difficulty has been rather increased than lessened by the differences, very marked differences, pointed out by many of the authors[4]. Thus three differences are noted : (*a*) the Eternal Law has obligatory power, providence has not ; (*b*) The Eternal Law deals with the common good of the universe, providence with the particular good of singular things ; (*c*) The Eternal Law is like a principle, providence like the conclusion from this principle.

If we take the first two of these three differences

1. 1a,q.22, a.1
2. 1a2æ, q.93, a.1
3. Cajetan, in 1 am 2æ, q. 91. a.1.
4. *e.g.* Billuart, Tract. De Legibus, Diss. II, a.1

in the obvious meaning of the words, they are quite opposed to the Thomistic teaching on providence. St. Thomas certainly taught that providence has obligatory power. Thus in his tract on providence, he reduces it to prudence and says providence " est enim principalis pars prudentiæ "[1], which is precept or command[2]. Further on in this same tract we find the following ; " Providentia autem, sicut et prudentia, est ratio in intellectu existens præceptiva ordinationis aliquorum in finem "[3].

This doctrine is confirmed by the interpretation of the Salamanticenses : " providentia . . . ponitur in actu intellectus, in quo consistit prudentia, nimirum in præcepto et imperio . . . Si autem providentia non esset præceptiva, ac proinde in tali præcepto consisteret, non redderetur a D. Thoma sufficiens ratio quod dixerat, nimirum providentiam esse in intellectu, atque adeo essentialiter esse actum intellectus præsupponentem voluntatem finis ; cumque in sententia ejusdem Doctoris . . . providentia non solum præsupponat voluntatem finis, sed etiam Synesim et electionem . . . "[4]. This distinction given be the authors between Eternal Law and providency may be understood of the radical source of this obligatory power, which is the Eternal Law, since the very existence of providence comes from the Eternal Law, as we shall see.

1. 1a,q.22,a.1
2. 2a2æ,q.47,a.8.
3. 1a,q.23,a.4
4. Salamanticenses, Vol. II, De Prædestinatione, Disp, II, Dubium II, Vera Sententia.

As for the second difference noted, *i.e.* that providence is about singular things, the Eternal Law about the common good, here again we find a distinct disagreement from the explicit words of St. Thomas. Thus: "Sed necesse est dicere omnia divinæ providentiæ subjacere, non in universale tantum, sed etiam in singulari"[1]. an expression that would seem to leave no doubt as to the mind of St. Thomas as he takes the universal nature of providence almost for granted. Again we find: "Cum igitur Deus sit universalis provisor totius entis, ad ipsius providentiam pertinet ut permittat quosdam defectus esse in aliquibus particularibus rebus, ne impediatur bonum universi perfectum"[2]. This same doctrine is taught expressly in the Summa Contra Gentes[3].

In the Contra Gentes is perhaps the basis of this distinction given by the authors. Here St. Thomas insists that providence extends to the very smallest things, concluding his argument in these words: "ejus igitur providentia est omnium singularium immediate"[4]. In the mind of St. Thomas, providence was not restricted to singular things, though it did extend to the smallest; in this latter respect it differed from the Eternal Law which is concerned *only* with the universal.

The third distinction placed between providence and the Eternal Law seems to be the real concept of St. Thomas: the Eternal Law is the

1. Ia.q.22,a.2.
2. Ib. ad 2um.
3. *e.g.* lib. III, cap. 75.
4. Ib. cap. 76.

general principle, providence is like a conclusion from this principle. We will understand this better if we grasp the basis of this analogy, the other member of which was before the mind of St. Thomas in writing of the Eternal Law. In De Veritate, St. Thomas tells us that: "lex enim æterna est consideranda in Deo, sicut accipiuntur in nobis principia operabilium naturaliter nota: ex quibus procedimus in consiliando et eligendo, quod est prudentiæ, sive providentiæ"[1]. St. Thomas was drawing an analogy between the Natural Moral Law and its precepts, on the one hand, and the Eternal Law and providence on the other. In the Natural Moral Law we have two fundamental general principles—Bonum est faciendum, malum est vitandum—from these are drawn all the other precepts of the Natural Moral Law; so also the Eternal Law is the general principle from which all the ordinations of providence flow.

That this is indeed the sense of St. Thomas can be shown quite clearly. In De Veritate we read: "Dicendum quod providentia in Deo proprie non nominat legem æternam, sed aliquid ad legem æternam consequens . . . Et similiter etiam in Deo lex æterna non est providentia, sed providentiæ quasi principium; unde et convenienter legi æternæ attribuitur actus providentiæ; sicut et omnis effectus demonstrationis principiis indemonstrabilibus attribuitur"[1]. The

1. De Veritate, q.5, a.1 ad 6um.
1. De Veritate, q.5,a.1 ad 6um. cf. Ib. ad 7um.

same doctrine can be found in Contra Gentes[2].

It may be noted that in the whole tract in the Contra Gentes, St. Thomas insists again and again on this conception of the Eternal Law as the "ratio providentiæ." In the Summa Theologica itself, throughout all of Question 93 (1a2æ) St. Thomas repeatedly speaks of the Eternal Law as the "ratio providentiæ" and the "ratio gubernationis divinæ." By this he means not only the actual government, in its execution, but also as it exists in the divine mind. Even though we did not have De Veritate and Contra Gentes to assure us of this, there are sufficient indications of it in the Summa itself. We have already quoted one text quite explicit in this regard[3]; and in this Question 93 itself the minor of an objection reads: "Sed ratio providentiæ est lex æterna, ut dictum est"—a statement which St. Thomas in his response not only concedes but defends[4]. In answer to another objection he says expressly "lex æterna est ratio divinæ providentiæ, ut dictum est"[5].

St. Thomas then placed the difference between the Eternal Law and providence in the difference between a principle and a conclusion, drawing an analogy with the first principles of the Natural Moral Law and the precepts or conclusions drawn from these principles. But it must be remembered that this is only an analogy, not a strict com-

2. *e.g.* lib. III, cap. 97, 115, 121 etc.
3. vid. supra p. 31 et 32.
4. 1a2æ, q.93, a.3 obj.3 et resp.
5. Ib. a.5 ad 3um; confer 1a, q.22, a.1 ad 1um (explicit)

parison, for the things are of different orders. It was perhaps the oversight of this fact that led to the statement that providence was concerend only with singular things.

In the Summa Contra Gentes St. Thomas goes even more deeply into this question, determining just in what this basis or principle of divine providence consists. Thus he tells us: "Primum ergo principium in dispositione providentiæ est finis; secundum forma agentis, tertium, ipsa dispositio ordinis effectuum . . . (here St. Thomas adds the caution which we have already quoted[1]). Again he says; "In prædicto autem ordine, secundum quam ratio divinæ providentiæ attenditur, primum esse diximus divinam bonitatem, quasi ultimum finem, qui est primum principium in agendis; dehinc vero, rerum numerositatem, ad quam constituendam necesse est gradus diversos in formis et materiis et agentibus et patientibus et actionibus et accidentibus esse. Sicut ergo prima ratio divinæ providentiæ simpliciter est divina bonitas, ita prima ratio in creaturis est earum numerositas, ad cujus conservationem et constitutionem omnia alia ordinari videntur"[2].

In these two explanations of this very profound question three distinct steps are placed as the root of providence: (*a*) the divine goodness; (*b*) the divine form as it is imitable by creatures, or, viewing it differently as in the second quotation, the multitude of creatures who can

1. Con. Gent. lib, III. cap 80; vid. supra p. 35 et 36.
2. Contra Gentes, lib. III, cap, 97.

represent this goodness by imitating the divine form ; (*c*) the disposition of the order of effects. Applying the general principles of law laid down by St. Thomas, as he expressly wished them to be applied when he said " Ratio gubernantis actus subditorum rationem legis obtinet, servatis aliis quæ supra esse diximus de legis ratione "[1], we can see that in laying down these three principles St. Thomas not only gave the fundamental reasons of providence and concretely determined his notion of the Eternal Law, he also gave the fundamental sources of the Eternal Law itself, probing this question to the very bottom.

As we have shown in the first chapter of this dissertation, law is a dictate or imperium or precept of the practical reason of one who has care of a perfect community. Applying this first requirement, namely precept of practical reason, we see at once that St. Thomas did not place the Eternal Law in the divine goodness which cannot be called a precept. The same criterion rules out the second principle or the divine form as imitable by creatures. This leaves only the third principle or what St. Thomas calls the " disposition of the order of effects."

Precept or imperium is an act of prudence which follows counsel and judgment in the reason and election in the will[2]. St. Thomas does not admit counsel in God except in a very broad analogical sense[3] for counsel implies some doubt,

1. 1a2æ, q.93, a.1
2. 2a2æ, q.47, a.8 ; 1a2æ, q.17, a.1 ; Ib. a.3 ad 1um.
3. 1a, q.22, a.1 ad 1um.

some hesitation while all the knowledge of God is infallibly certain. As to the divine judgment and election as bearing on this question he says : " Sic igitur quod Deus suam bonitatem amet, hoc necessarium est ; sed ex hoc non necessario sequitur quod per creaturas repræsentetur, quum sine hoc divina bonitas sit perfecta. Unde quod creaturæ in esse producantur, etsi ex ratione divinæ bonitatis originem habeant, tamen ex simplici Dei voluntate dependet. Supposito autem quod Deus creaturis suam bonitatem communicare, secundum quod est possibile, velit per similitudinis modum, ex hoc rationem accipit quod sint creaturæ diversæ ; non autem ex necessitate sequitur quod secundum hanc vel illam perfectionis mensuram aut secundum hunc vel illum numerum rerum. Supposito autem ex divina voluntate quod hunc numerum in rebus statuere velit, et hanc unicuique rei perfectionis mensuram, ex hoc rationem accipit quod habeat formam talem et materiam talem. Et similiter in omnibus patet. Manifestum igitur fit quod divina providentia secundum rationem quamdam res dispensat, et tamen hæc ratio sumitur ex suppositione voluntatis divinæ "[1].

The process then, as outlined by St. Thomas would be : (*a*) the divine goodness as the final end of all things ; (*b*) the divine form showing the ways in which this goodness could be imitated by creatures ; (*c*) the divine will to represent this goodness in creatures, or the will to create ;

1. Contra Gentes, lib. III, cap. 97.

(*d*) the divine judgment as to the order this representation will take; (*e*) the divine election of that order; (*f*) the divine imperium or precept, following the election and judgment, and commanding that order's establishment and conservation—the "dispositio ordinis effectuum."

As is plain from our comparison of the Eternal Law with providence, St. Thomas considered this precept—in which the Eternal Law precisely consists—as general in character. In the Contra Gentes[1] St. Thomas shows at some length how all the diversity of the world is deduced, as conclusions from a principle, from the simple diversity of the forms of creatures. So that it would seem to be sufficient if the eternal precept commanded the diversity of forms of actual things and their direction to the final end, or divine goodness. From this basic principle providence could deduce, by way of conclusion, all its ordinations; for, as St. Thomas says, "ad cujus (*i.e.* numerositatis creaturarum) conservationem et constitutionem omnia alia ordinari videntur"[2].

From this treatment of the essence of the Eternal Law we see that St. Thomas conceived it as answering exactly and completely to the requirements he would demand of all laws—namely, it is essentially of reason, a precept or imperium of the practical intellect but supposing the election of the will; at the same time it is the precept of the governor of a perfect community

1. Contra Gentes, lib. III, cap. 97.
2. Ib.

and to the common good[1]. And all this is included in St. Thomas' definition of Eternal Law as "ratio divinæ sapientiæ, secundum quod est directiva omnium actuum et motionum"[2].

SCOPE OF THE ETERNAL LAW.

I. By Way Of Participation

The scope of the Eternal Law can be considered either from the point of view of participation in or of subjection to that law. Under the first heading comes the possibility of this law being known, not in itself, but as regards its rational subjects. From what we have said above it is evident that no one, but God and the blessed who see God as He is in Himself, can know this law directly, that is as it is in itself; since it is in God and really identical with the divine essence. A fortiori, no one but God can comprehend it[3].

The Eternal Law can, however, be known by what St. Thomas calls a participation or irradiation; in this way every rational creature knows this law, and at least materially, if not formally under the aspect of law. The profound basis for this statement is that every cognition of truth is a participation of the Eternal Law, for each existing thing has truth only in so far as it imitates the divine intellect, in other words, conforms to the Eternal Law which is the measure of things and is the truth itself.[4]

This proof has a profundity that our exposition

1. 1a2æ,q.90.
2. Ib. q.93,a.1; vid. supra p. 34 et 35.
3. 1a2æ, q.93, a. 2 corp. et ad 2um.
4. 1a2æ, q.93, a.1 ad 3um; Ib. a. 2 corp.

of the essence of the Eternal Law allows us to grasp somewhat more easily. St. Thomas gives a thorough exposition of this proof in De Veritate. Here he says that truth is to be found in the intellect and in things existing. Truth is found in things in as much as they imitate the divine intellect which is " earum mensura, sicut ars est mensura omnium artificiatorum " ; and, in another way, in as much as they , of their very nature cause a true apprehension in the human intellect, which measures things[1]. Going still deeper, St. Thomas explains ; " Res autem existens extra animam, per formam suam imitatur artem divini intellectus ; et per eamdem nata est facere de se veram apprehensionem in intellectu humano, per quam etiam formam unaquæque res esse habet ; unde veritas rerum existentium includit in sui ratione entitatem earum, et superaddit habitudinem adæquationis ad intellectum humanum vel divinum "[1]. Thus it is the form of the existing thing that is the foundation of its truth both in reference to the divine and to the human intellect ; as we have explained above[2], the essence of the Eternal Law consists precisely in the precept commanding the diverse forms of things. The direct derivation of the truth of actually existing things from the Eternal Law is thus evident ; a fortiori then, the cognition of this truth is a cognition of the Eternal Law.

That this is the meaning of St. Thomas is brought out more clearly in this same tract in

1. De Veritate, q.1 a.8.
2. vid. supra p. 45 et 46.

De Veritate[1] when he says : " . . . res naturales, ex quibus intellectus noster scientiam accipit, mensurant intellectum nostrum . . . : sed sunt mensuratæ ab intellectu divino ; in quo sunt omnia creata, sicut omnia artificiata in intellectu artificis. Sic ergo intellectus divinus est mensurans non mensuratus ; res autem naturalis, mensurans et mensurata ; sed intellectus noster est mensuratus, non mensurans quidem res naturales, sed artificiales tantum. Res ergo naturalis inter duos intellectus constituta, secundum adæquationem ad utrumque vera dicitur ; secundum enim adæquationem ad intellectum divinum dicitur vera, in quantum implet hoc ad quod est ordinata per intellectum divinum . . . Secundum autem adæquationem ad intellectum humanum dicitur res vera, in quantum nata est de se formare veram æstimationem."

The words used by St. Thomas must be noted particularly for they bring out clearly the work of the Eternal Law. Thus " est (intellectus divinus) earum mensura "[2], " res naturales . . . mensuratæ ab intellectu divino "[3], " Secundum adæquationem ad intellectum divinum dicitur vera, in quantum implet hoc ad quod est ordinata per intellectum divinum "[4]. It is the divine intellect, as it is the measure and rule of things, as it is ordinative of things, that is the source of this truth ; in other words, it is the divine intellect as

1. De Veritate, q.1, a.2
2. Ib. a.8.
3. Ib. a.2.
4. Ib. q.1 a.2.

it is the Eternal Law.

As a final proof of this we may point out that St. Thomas has employed the very same example here in De Veritate[2] that he uses in opening his tract on the Eternal Law: "sicut in quolibet artifice præexistit ratio eorum quæ constituuntur per artem, ita etiam in quolibet gubernante oportet quod præexistat ratio ordinis eorum quæ agenda sunt per eos qui gubernationi subduntur"[3].

From this proof it can be concluded that all men know the Eternal Law, at least as regards the first principles of the Natural Moral Law—truths which are universally known. Beyond this, the participation of the Eternal Law under its aspect of knowledge of that Law, varies with the greater or less knowledge of truth, keeping in mind always the distinction of material and formal knowledge of the Eternal Law[4]. This same proof is expressed more simply, though less profoundly, by saying that the Eternal Law can be known by its effects which we can easily see all about us.[5].

Under this same heading of participation falls the derivation of all other laws from the Eternal Law. Taking law formally, as dynamic, moving, directing things to their end, we can see clearly the derivation of all law from the Eternal Law. In every series made up of essentially dependent

2. De Veritate, a.2 et 8.
3. 1a2æ, q.93, a.1
4. Ib. a.2.
5. Ib. ad 1um.

motive agents, the second moves only by the power of the first, all the power of movement possessed by the second mover is derived from the first. Law is a motive agent directing, moving men to an end and the Eternal Law is the first, the supreme law; every law existing besides that Eternal Law derives its power as law from that first supreme law[1].

This is the same argument as the "prima via" of St. Thomas proving the existence of God[2] and like that argument, its whole demonstrative power lies in the understanding of the "series of movers" as being dependent, each upon its immediate superior, not only for its being but for the actual movement itself. That is, the members of the series are dependent "per se" not "per accidens."

Thus the meaning of St. Thomas is that this ordinative movement towards an end in derived or subordinate laws, such as the Natural Moral Law and human laws, derives its efficacy from a superior ordinative movement which ordains all things to their end. This subordinate ordinative movement that is derived law, in establishing a rule of action, is itself following a higher rule; and it is precisely from its adhesion to this higher rule that its efficacy as a law is derived. In more concrete terms: a human law has the "ratio legis" only in so far as it is according to right reason[3]; and in so far as it is according to right reason it is following the higher rule of the

1. 1a2æ, q.93, a.3
2. 1a, q.2 a.3
3. 1a2æ, q.93, a.3 ad 2um.

Natural Moral Law. This latter, a participation of the Eternal Law, is the rule ordaining man's actions to the perfection of his form, consequently to the " bonum rationis " ; and, as we have already seen,[2] this particular form is the result of the Eternal Law. St. Thomas sums up this teaching very briefly : " Aliquis actus secundum se malus dicitur . . . secundum quod actus discordat a rectitudine rationis . . . Et quia lex naturalis est secundum quam ratio recta est ideo Augustinus dicit . . . quod peccatum dicitur inquantum discordat a lege æterna, cujus expressio est ipsa lex naturalis "[3].

We have explained the meaning of St. Thomas here at some length because the words of his argument are open to misinterpretation. Thus taking the idea of movement alone, we might think that St. Thomas was reducing the efficacy of law to the presupposed movement of the will, and from this back to the will of the supreme legislator—a species of voluntarism that would give us a kind of " divine right of legislators," making of law an imposition of will instead of a rule of reason—a notion that is widely accepted to-day. To get the real sense of St. Thomas we must take his argument without mutilating it. Thus he starts off this proof by saying : " lex importat rationem quamdam directivam actuum ad finem "[1] i.e. not *any* kind of movement but an *ordinative movement of reason* to an end. From this

2. vid. supra p. 45 et 46.
3. II Sent. d.42, q.2 a.5.
1. 1a2æ, q.93, a.3.

he argues to a first *movement of reason*. To take only the notion of movement as the basis of the argument would be to destroy the argument altogether, for it would automatically take the notion of law out of the discussion. The point of the argument lies precisely in keeping intact the notion of law *i.e.* an ordinative movement towards an end, for the argument is trying to prove that that movement which is law, not any kind of movement is derived from the Eternal Law.

This proof also contains the argument, given by many of the authors, from the fact that a law which is such, not by essence but only by participation, is derived from a law " per essentiam," namely the Eternal Law. Billuart notes here that a law might be derived from the Eternal Law as it is the supreme exemplar of all laws ; in as much as all laws should conform to it ; as it is the efficient cause of legislative power ; or in as much as these laws are really dictated and approved by the Eternal Law through the medium of faith and reason[1]. But these considerations add nothing substantial to the profound explanation of this derivation given by St. Thomas and indeed seem little more than a superficial statement of St. Thomas' profound reasoning.

It should not be concluded from this that all laws bind " jure divino." A law binds in this way only because it has God for its immediate author ; so that laws coming through the medium of human power do not bind " jure divino " though they are derived from the Eternal Law[2].

1. Billuart, Tract. de Legibus, Diss, II, a.1 2. 2. Ib.

II. By Way of Subjection

From our consideration of the essence of the Eternal Law, its subjects are quite evident. The Eternal Law is the divine precept regulating and ordaining all creatures and their actions to the divine goodness; like all law it deals only with the means to the end[3]. Consequently it extends to everything capable of direction to that one end, and to nothing else[4]. Everything that pertains to the divine nature or essence is without the scope of this law; rather it is the law itself.

All created things, necessary or contingent, are subject to the Eternal Law, though in different ways. The necessary and natural contingent things cannot be subjects of law in a strict sense, *i.e.* subjects of a moral law, since they are not rational, are not capable of rights and duties. Necessary things have the very reason for their necessity from the Eternal Law[1]; contingent things are contingent in the sense that they proceed from secondary causes which are capable of being impeded in their action, and this by ordination of the Eternal Law. Even the actual failure of these causes to produce their effects is the result of the Eternal Law, the law of the Universal Governor. Thus they are contingent, not in regard to the Eternal Law or the first cause, but in respect to human laws and the immediate secondary causes of these contingent things[2].

In subjecting these natural things to the

3. 2a2æ, q.47, a.8; Ib. q.50. vid. supra p.14.
4. 1a2æ, q.93, a.4.
1. 1a2æ, q.93, a.4 ad 4um. 2. Ib. a.5 ad 3um.

Eternal Law, St. Thomas is using the term "law" in a broad analogical sense for the purpose of indicating that everything is subject to divine direction. A human legislator by his precept imprints something, so to speak, on the mind of his subjects which is the principle of action of these subjects as such, that is the "verbum mentale" is imprinted on the minds of men as the result of the promulgation of the law. In governing the world, God imprints on the whole of creation the natural principles which govern the proper actions of every individual nature[1].

This is the basis of St. Thomas' analogy; but it is only an analogy as he himself makes abundantly clear. Thus in giving the analogy he uses such phrases as "per hunc modum Deus *dicitur* præcipere toti naturæ," "Unde *aliquo modo* creaturæ irrationales subduntur legi æternæ, in quantum movetur a divina providentia; non autem per intellectum divini præcepti, sicut creaturæ rationales"[2]. Further on in the tract we find a clear cut distinction between participation of law "per modum cognitionis" et "per modum actionis et passionis," in which latter way alone, *i.e.* in a purely passive manner, irrational creatures can be said to be subjects of law[3]. In the Contra Gentes we find the explicit statement: "quum lex nihil aliud sit quam ratio et regula operandi, illis solum convenit dari legem

1. Ib. a.5 corp.
2. 1a2æ, q.93, a.5; Ib. ad 1um et 2um.
3. Ib. a.6.
4. Contra Gentes, lib. III., cap. 114.

qui sui operis rationem cognoscunt. Hoc autem convenit solum rationali creaturæ "[1].

It is then quite clear that St. Thomas limited law in its strict sense to rational creatures alone; it is also clear that in his ex professo treatment of law in the Summa Theologica he maintained this same distinction, not only from the texts we have already cited but from the prologue to the very first question on law[1] where he tells us: "qui (Deus) nos instruit per legem" and of course it is only rational creatures who are capable of instruction in this strict sense. In treating of the Eternal Law this distinction was not overlooked or confused; but using terms that would admit of no misunderstanding, St. Thomas treated the Eternal Law, both in its strict sense and its wider sense, giving the whole tract a unity otherwise impossible, yet avoiding any confusion.

The manner in which men are subject to the Eternal Law is really the subject matter of our fourth chapter—on the Natural Moral Law. It may be summed up here briefly by saying that men are subject to this law in its broad sense, in so far as they have instincts and instinctive acts, "actus hominis"; over and above this they are subject to it in a way peculiar to themselves, *i.e.* rationally, for they have a knowledge of the law, as we have shown. And this last is subjection to the Eternal Law in the strict sense, taking the law as a moral law. In this sense the subjection of men to this law extends to their human acts, good or bad, for all these acts are subject to divine

1. 1a2æ, q.90, prologue.

government. This is true not only of the acts themselves but also of their consequences, for which men must suffer the penalties imposed by that law or enjoy the rewards established by it, not only in this life but for eternity[1].

1. 1a2æ, q.93, a.6; Ib. ad 3um.

CHAPTER III.

DOCTRINE OF SUAREZ.

IT will be useful, for a good understanding of the Thomistic doctrine on law, to consider well the teaching of Suarez on this question. Suarez is the chief opponent of the Thomistic teaching within the Church and his notion is quite directly opposed to that of the Thomists so that the contrast of one with the other will make both stand out much more clearly. Then too the Suarezian doctrine has received wide acceptation, perhaps as much because of the thoroughness of the exposition from an historical and positive point of view as from the doctrine itself. We shall give as clear an explanation as possible of Suarez' teaching on Law, on the Eternal Law and on the Natural Moral Law, offering a criticism of the first two immediately, the Natural Moral Law according to Suarez will be criticized at the end of our last chapter. In the course of these criticisms we shall point out the chief points of opposition to the doctrine of St. Thomas.

Taking law in its strict sense—as moral law—Suarez says it is evident that it pertains only to an intellectual creature since it essentially implies moral direction and the intellectual creature alone is capable of this. Moreover it pertains to the mind of that intellectual nature, taking "mind" as including both intellect and will, for it is by the mind that the intellectual nature is capable of moral direction to an end. All this quite evidently refers to the subject of law; but from this it follows a fortiori that law, as it is in the legislator, pertains to the mind[1].

Narrowing the question still further, Suarez finds that law not only pertains to the mind but to some act (actus secundus) of that mind. The reason for this further determination is that law has the proximate power of binding its subjects and of moving them; this power cannot exist in a habit or potency, except radically and remotely. Again, "imperium" and "ordinare" express the notion of act and it is by law that these are constituted ("fiunt")[2].

To determine the exact nature of this "actus secundus," the author considers law in its different phases. As it is in some outward sign, for example a code of laws, it is quite evident that law consists in some exterior act, such as the written or spoken word which manifests the mind of the legislator. This exterior act includes not only the act itself

1. Suarez, De Legibus, lib. 1, cap. IV, 2.
2. Ib. 3.

but also the term of that act[1]. As it is in its subject, law—or this act in which law consists—si merely a judgment of the intellect, proposing and proximately applying the law to the will. An act of the will is unnecessary here for law precedes the will of the subject and obliges it[2]. Here the word " act " would not seem to include the term of the act or the " verbum expressum " of the mind. In treating of the exterior act, Suarez says expressly that by " act " he includes the term of that act[3] ; but here he makes no such statement, but says without qualification " de lege, prout esse potest in homine legi subjecto, certum est consistere in actu mentis, et per se solum requirere judicium intellectus et non actum voluntatis "[4].

Law, then, as it is in some outward sign consists in an external act ; as it is in the subject, in the judgment of the intellect. Taking law in its most proper sense, as it is in the legislator, we find that several acts are involved. The first of these is an act of the will intending or willing the common good of governing subjects well[4]. This is followed by an act of counsel in the intellect as to which law is just, and convenient to the end in view. This act of the intellect does not, of course, follow successively in God as it does in man for in God there is no succession. These two acts, of will and of intellect, are the remote foundation of law[5].

1. Suarez, Lc. 4.
2. Ib. 5.
3. Ib.
4. Ib. 5. Ib.

Following counsel is an act of judgment on the part of the intellect by which the legislator establishes and discerns that such a disposition of things will be for the good of the community and that it is expedient that this disposition be observed by all. It is this act that gives law its rational character, by it law is prudently and rationally framed[3]. This act of judgment is followed immediately by an act of election on the part of the will by which the legislator accepts the judgment of the intellect, chooses it and wills that it be observed by his subjects[4]. *In this act of election precisely consists the essence of law*

" . . . spectando ad rem ipsam melius intelligi et facilius defendi, legem mentalem (ut sic dicam) in ipso legislatore esse actum voluntatis justæ et rectæ quo superior vult inferiorem obligare ad hoc vel illud faciendum "[5].

Essentially this act of the will does not deal with the actual execution of the law but with the obligation of its subjects ; it is a will to oblige those subjects and without it there would be no obligation[1]. No act of the intellect is required after this act of the will to make up the essence of law; indeed an act of the intellect by way of " imperium " or command is impossible[2]. All that is required to make the law complete is that it be manifested to the subjects by some outward sign[6].

3. Suarez, De Legibus, lib. I, cap. 4, 6
4. Ib. 7.
5. Ib. cap. 5, 24 ; confer etiam, Ib. 8 ; Ib. cap. 4, 10 seq.
1. Suarez, De Legibus, lib. 4, 8.
2. Ib. 11.
6. Ib. 12.

To accomplish this end, more intellectual acts are assigned, but these all follow the law essentially constituted; thus we have a judgment of the intellect concerning this manifestation and an act of the will putting this judgment into execution[1].

The basis of the exclusion of any "imperium" on the part of the intellect following the election of the will—in which law precisely consists—is the notion of the part played by the intellect in the individual man. Thus the particular potency, which is to execute the "imperium" or command within the individual himself, does not perceive the force of this command (says Suarez) nor does it pertain to the intellect to apply the potency to operation, but only to propose an object to the will; it is the task of the will to apply the other potencies to actual operation. This notion of "imperium" in the individual is extended to the "imperium" concerning other individuals, or the "imperium" of the governor. This is cited as the more common opinion and supposed from 1a2æ, q.17, a.1[2].

We now have a clear notion of Suarezian doctrine on law. In its most strict sense—as it is in the legislator—law consists in an act of the will, election, which is preceded by counsel and judgment on the part of the intellect, and of course by the act of the will choosing the end. But it is this election of the will which is essentially and per se law.

1. Suarez, De Legibus, lib. 1, cap. 4, 14.
2. Ib. 11 et 12.

In proof of this explanation of law, Suarez offers no less than eight or nine arguments, citing in his favour all those theologians who hold that "imperium" is an act of the will as against the Thomistic teaching that it is an act of the intellect[12]. Passing over the argument from authority, *i.e.* on the grounds that Scripture and the civil codes call the will of God and of a prince law[13], we find five principal arguments from the properties of law itself. These arguments proceed from the fact that: law is a rule and measure of action[14]; that law enlightens and directs the subject[15]; that law ordains to an end[1]; that law has power to move and apply the subject to the exercise of the act[2]; and that law has the power to oblige[3].

In other details of law, Suarez agrees substantially with St. Thomas. Law is framed by public authority[3] for the common good[4] and is perpetual[5]; promulgation is of the essence of external law, *i.e.* law as it exists outside of the legislator as opposed to law as it is in the legislator[6]. The same four acts are assigned to law[7] and the same end[8]. Coming down to a definition Suarez

12. Suarez, De Legibus, cap. 5, 8.
13. Ib. 9.
14. Ib. 11.
15. Ib. 12.
1. Ib. 13.
2. Ib. 15.
3. Ib. cap. 8. 2.
4. Ib. cap. 7.
5. Ib. cap. 10.
6. Ib. cap. 11, 3.
7. Ib. cap. 15, 2.
8. Ib. cap. 13, 3.

says: "Lex est commune preceptum, justum, ac stabile sufficienter promulgatum"[9]. By "commune preceptum" he includes the notion of public authority making the law since it is for the whole community. In this phrase he places the essence of law in a precept but, as we have seen, by a precept he understands an act of the will; specifically, election. And it may be noted here that under this act its term is not included as it was under the first aspect of law, namely as it is in an outward sign where it included the written record.

P CRITICISM.

The opposition between the doctrines of Suarez and St. Thomas, while evident enough, is not always grasped in its entirety. For purposes of clarity, brevity and completeness we give that opposition in graphic form.

LAW AS IT IS IN THE LEGISLATOR.

St. Thomas.	*Suarez*
1. Consists in "imperium" or precept.	1. Consists in "imperium" or precept.
2. Which is essentially an act of reason.	2. Which cannot possibly be an act of reason.
3. This act of reason presupposes an act of the will.	3. "Imperium" is essentially of the will; no consequent act of reason pertains to essence of law.
4. This act of reason includes the term of this act or the proposition of reason.	4. This act of the will does not include its term.
5. Since reason is the cause of the precept it is the cause of its corollary or obligation.	5. The will to oblige the subjects is the sole cause of obligation; without it there would be no obligation.
6. The notion of ordination, of regulation is primary in law; that of obligation, while essential, is derivative from notion of precept.	6. Notion of obligation is primary since it is in the act of the will to oblige subjects that law essentially consists.

9. Ib. cap. 12, 5.

With these two expositions of law clearly understood, it is necessary for a judgment of them to examine the proofs adduced for each one. We have already seen the arguments which St Thomas uses to prove his opinion[1]; it remains only for us to examine those of Suarez.

Examining these arguments of Suarez[2] we see that they can all be stated in a single sentence: "imperium" is an act of the will, not of the intellect. And this is exactly the fundamental difference between Suarez and St. Thomas. All the properties advanced by Suarez as proofs that law is an act of the will are given by St.

1. vid. supra Chap. I.
2. vid. supra p. 64 et 65.

Thomas as properties of "imperium"[3]. To determine the value of these arguments we must determine the potency which elicits the act of "imperium."

According to St. Thomas the acts of the mind preceding "imperium" are: counsel and judgment in the intellect, followed by election on the part of the will. Then comes "imperium" on the part of the intellect commanding the thing chosen by the will; this in turn is followed by "usus" of the will or the actual application to the potencies executing the "imperium"[4].

"Imperium" according to Thomists, is made up of three elements: ordination, intimation and motion. The first two of these acts are acts of the intellect, as is plain from the ordinary concept of the soul. It is the work of the intellect to compare objects, to determine the better of two or more (in a word to reason) and to propose these objects to the will and to the other potencies. As regards ordination, plainly it is of the intellect for it is attributed to intellectual virtues such as wisdom, prudence, art, etc., moreover whatever order is found in natural or voluntary things is of the intellect; works of nature are works of intelligence, while in voluntary things the will follows the order of reason, whether that order be true or false. The third element in imperium—motion—is caused by the will which is the first mover "ad exercitium"; but it proceeds immediately from the intellect which participates the motion of the

3. 1a2æ, q.17, a.1; 2a2æ, q.47, a.8; Ib, q.50.
4. 1a2æ, q.13 seq.; Ib. q.17, a.3 ad 1um; 2a2æ, q.47, a.8.

will just as the election of the will participates the rational judgment that precedes it[1].

An act which proceeds from two potencies, as does "imperium," is elicited by, is essentially from, the potency which gives substance to the act; the potency in which the act is consummated. The substance and material of "imperium" is not motion; but rather ordinative and intimating motion. Motion is rather the form than the substance. The classic example of this is the act of martyrdom. The motive power behind it is charity. It is from charity that the excerise of the act proceeds; but it is the virtue of fortitude that gives substance to the act, that receives this motion from charity and consummates the act. And martyrdom is the elicited act of fortitude[2].

The reasons for placing these acts of intellect and will ("imperium" and "usus") after election are based on experience; on the fact that there is a great difference in electing or choosing to do a thing and the actual execution of that election. On the part of the will there is the work of the potencies and faculties in the actual execution, the resistance of the appetite and external impediments—all of which election, being a purely internal act, did not have to deal with. These new inconveniences and difficulties did not hinder the election, indeed they could not appear until after

1. 1a2æ, q. 17, a.1; Cajatan in 1am2æ, q.17, a.1; John of St.Thomas, Cursus Theologicus, Disp. VII, a.2, 6. 7, 14; (in 1am 2æ 8, 17) Billuart De Actibus Humanis, Diss, III, a.7, 2.
2. 1a2æ, q.13, a.1; Cajetan, l.c.; Jno. a St. Thoma, l.c. a.2, 8, 9,14, 34; 1a2æ, q.17, a.1 ad 1um.

it. Consequently they demand a new effort, a new efficacy of motion and application from the part of the will (usus) ; and that this new motion might not be blind but reasonable, a new ordination of reason is necessary to direct it and to deal with these new elements. It is necessary to resort to another tribunal in which the executions themselves will be finally judged and ordained according to this ultimate individuation and these new circumstances. Since it is a question of execution, an intimation of this ordination is a fortiori required by the executive potencies. This ordination and intimation is the work of "imperium"[1].

According to Suarez these last two acts are unnecessary. The judgment preceding the election is sufficient to make the election reasonable, while the force of the election carries the act to completion ; "imperium," with all that it implies, is wholly from the will, is contained in the election itself[2]. That imperium is necessary we believe is evident from the preceding paragraph. But Suarez maintains that any imperium of the intellect is not only unnecessary but impossible after election because the potency involved could not perceive this imperium and the intellect has only to propose an object to the will, not to apply the potencies to actual operation[3].

John of St. Thomas calls this statement of the impossibility of intellectual "imperium" ridi-

1. Jno a S.Thoma, l.c. Disp. VII, a.1, 7 et 9. Billuart, l.c. 1.
2. vid. supra p. 63, 64.
3. Ib.

culous[4] and St. Thomas himself answers it[5]. The will is indeed blind, but it is not necessary for the will or any other potency to understand in order to be moved by the intellect any more than it is necessary for the feet to see in order that a man walk in a certain direction. Just as the physical members operate, not for themselves, but for the whole man, so it is with the potencies of the soul. To be more specific, the intellect moves the will by proposing an object to it ; the sensitive faculties are moved by the intellect through the medium of imagination whose apprehension is subordinate to and moved by reason. From the imagination is regulated the sensitive appetite which in turn regulates the members of the body. As for the actual exercise, the intellect moves these faculties by the movement it participates from the will[1].

To Suarez' contention that the will enlightens and directs the subject, is a measure of human actions and ordains to an end[2]—all properties of "imperium"—we need only refer to Cajetan's comment quoted above[3], for all these qualities are reduced to ordination and intimation.

What would seem to be Suarez' strongest arguments are that the imperium as an act of reason cannot have moving power and cannot oblige[3]. To meet this difficulty it is necessary to

4. Jno a S. Thoma, l.c. 15.
5. 1a2æ, q.17, a.5 ad 2um.
1. Jno a S. Thoma, l.c., Disp. VII, a.1 15.
2. vid. supra p. 64 et 65.
3. vid. supra p. 67 et 68.

remember that "imperium" does not consist in mere motion or mere obligation, but in motion and obligation as ordaining things to an end and as manifesting this ordination—both of which elements are supplied by the intellect[3]. Moreover, "imperium," according to the Thomistic conception, though essentially an act of the reason, is not exclusively so but presupposes and includes an act of the will[1]. While it is true that the intellect of itself could only move the will and the other potencies as regards specification, by proposing an object to them, "imperium" of the reason moves not only as regards specification but also as regards "exercitium," here and now to be done, because of its nature it includes an efficacious movement of the will. It participates the preceding election of the will[2].

It would be just as correct to say that election cannot be reasonable, cannot choose with discretion, because election is an act of the will while judgment is an act of the intellect, as to say that the "imperium" of reason lacks motive power since it is not of the will. Just as the election participates the preceding judgment of the intellect and thus is reasonable, so "imperium" participates the preceding election of the will and so is motive or obligatory. The will, though the first principle of motion in man, can move nothing, neither as regards the potencies immediately subject to it, nor as regards other

3. Cajetan in 1am2æ, q.17, a.1; Jno a S. Thoma, l.c. a.2, 17 et 28
1. 1a2æ, q.17, a.1 et Cajetan in loco.
2. 1a2æ, q.17, a.1 et Jno a S. Thom., l.c. a.1 13

individuals, except by means of an intimation denouncing and directing what the will wishes to be done. This directive intimation and denunciation is the material, the substantial element in "imperium" and is the work of reason. So that although from the point of view of movement to actual exercise of an act and in its origin, "imperium" begins from the will, it is materially, substantially and immediately from the intellect[1].

THE ETERNAL LAW.

Suarez distinguishes two states of the Eternal Law: an internal state, the law as constituted in God, the Legislator; and an external state, when it was proposed to creatures[2]. In the first sense it is certainly eternal, as are all things in God. In the second sense it is not less certainly not eternal since it is cœxistent with creatures[3]. As to the objection that the Eternal Law could not be promulgated from eternity, he agrees with the answer of St. Thomas that actual promulgation is not necessary but it suffices that promulgation on the part of the legislator is from eternity[4]. The reason for this, in the theory of Suarez, is that the decree of God is immutable; consequently, as regards the consummation of law, this is peculiar to Eternal Law alone for the decree of human legislators is mutable. Consequently before promulgation it is rather the determination

1. Jno a S. Thoma, l.c., Disp. VII, a. 28 et 32.
2. Suarez, De Legibus, lib. II, cap. 1, 5.
3. Ib.
4. Ib. 11.

to frame a law than the law itself which is in the mind of the legislator[1].

In scope the Eternal Law does not touch the acts of the divine intellect and will as they regard God[2]. Taking the Eternal Law as a moral law, it does not extend to irrational but only to rational creatures[3]. All moral acts are the material of this law either by way of precept or prohibition[4].

Determining the essential notion of this law, Suarez says it is eternal and is in the mind of God[5]. Moreover it consists in some act ("actus secundus")[6]; and this "actus secundus" is a free act[7]. Eternal Law is not a mere idea[8] but necessarily demands an act of the will because liberty is formally in the will[9]. Eternal Law does not consist in any act of the intellect preceding the decree of the divine will[9] *It does consist precisely in a free decree of the divine will establishing an order to be observed,*whether we take this law in a broad sense as reaching to all creatures, or strictly as the moral law binding intellectual creatures alone[9].

As proof of this explanation of the Eternal Law Suarez says that the Eternal Law in its broad sense, as it directs irrational creatures and those acts of man which are not moral, is evidently

1. Suarez, De Legibus. lib, II, cap. 1,. II
2. Ib. cap. 2, 2 et 9.
3. Ib. 13.
4. Ib. 15.
5. Ib. cap. 3. 1,
6. Ib. 3.
7. Ib. 4.
8. Ib. 5.
9. Ib. 6.

in the will of God because God commands these things immediately and proximately, not by speaking but by making them such as they are[1]. That Eternal Law, taken as a moral law, is in the will of God, is proved by the same arguments which were given to prove that all law is precisely an act of the will[2].

CRITICISM.

Since every explanation of the Eternal Law in God is merely an application of our method of understanding to the action of God, a criticism of such an explanation must be nothing more than a criticism of the basic notion of law. If that basic notion is erroneous, then a fortiori its application to God is erroneous. As a result, our criticism of Suarez' notion of law is an effective refutation of his notion of Eternal Law; particularly as he uses the same arguments in its behalf as he used to prove his idea of law in general. As for the argument adduced here in favor of the Eternal Law in its broad sense[3], it is based on the idea that any "imperium" of the intellect is merely a sign, a manifestation of an "imperium" of the will. It can therefore be reduced to the basis of all Suarez' arguments, namely that imperium is in the will, not in the intellect; we have already dealt with this contention in criticizing Suarez' doctrine on law in general[4].

1. Suarez, De Legibus, lib. II, cap. 3, 7 et 8.
2. Ib. 8.
3. Vid. supra p. 75.
4. Vid. supra p. p. 66 seq.

One point worth mentioning here because it is usually emphasized in comparing the Thomistic doctrine with that of Suarez, is brought out clearly in the exposition of Eternal Law we have just given from the latter. When Suarez, in explaining the response to the objection on the promulgation of the Eternal Law, says that before promulgation it is rather a proposal or determination to frame a law than the law itself that is in the mind of the human legislator[3], he brings out what many authors have termed the "active" element of his doctrine in contrast to the "passive" nature of Thomistic doctrine. The term is not only misleading, for both are decidedly active, but quite incorrect. Suarez includes under the term "act," in which law consists, the term of that act; but this is true only of the law as it is in some outward sign[4]. As it is in the subjects it is precisely the act of judgment[5]. As it is in the legislator the term of the act is not included[1] It is an act of the will and such an act does not have its term in the will itself; so that if we are to place the essence of law in the will we cannot include this "term" in the essential nature of law. On the contrary the Thomistic teaching is that it is precisely in this term of the act of the intellect—the proposition—that law consists[2]. It is evident at once that both

3. Vid. supra p. 75.
4. Vid. supra. p. 61.
5. Ib.
1. Vid. supra p. 65.
2. Vid. supra p. 13 seq (Chap. I).

these conceptions are active, since both are held to be precepts. The difficulty is really a corollary of the basic difficulty as to the origin of "imperium," whether it is an act of the intellect or the will.

THE NATURAL LAW.

In treating of the Natural Law, Suarez is speaking of law under a different aspect than that taken in his tract on law in general and on the Eternal Law. There he was speaking of law as it is in the legislator; here he is treating of law as it is in the subject, Natural Moral Law, as it is in the legislator is nothing less than the Eternal Law itself[1].

Taken in this light, *i.e.* as it is in the subject, we may distinguish a double element in the Natural Moral Law. The first is human nature itself, the rational essence in as much as by reason of this essence some things are naturally convenient to it, others inconvenient or opposed to it. In this way human nature is the foundation of natural honesty. The second element is the power of human nature to discern the difference between the convenient and the inconvenient, the suitable and unsuitable; this is the Natural Moral Law itself, commanding or prohibiting things to the human will[2].

This general notion of Natural Moral Law—namely that it is in the human reason—is in perfect accord with Suarez' general tract on law where he held that law in its subjects is a judg-

1. Suarez, De Legibus, lib. II, cap. 5, 14.
2. Suarez, De Legibus, lib. II, cap. 5, 9.

ment of reason[1]. This agreement with his general tract is complete when he declares that the Natural Moral Law is an "actus secundus" of human reason, namely judgment; this does not seem to include the term of this act—the proposition—for he says, "non dubito, quin in actuali judicio mentis propriissime existat lex naturalis"[2]. But he would also admit that the natural light of reason can be called the Natural Moral Law, for even when men do not think or judge, the Natural Moral Law is retained in their hearts. In other words this "lumen naturale" can be considered as the Natural Moral Law permanently within man though most properly speaking the judgment of the intellect is the Natural Moral Law[3].

Suarez further clarifies this notion of the Natural Moral Law by saying that this law is not only indicative of good and evil, it also contains a precept of good and a prohibition of evil[4]. Natural Law therefore is that "imperium" which can induce an obligation; and since the human judgment cannot do this, it must merely show an obligation that is already supposed. So this judgment, in as much as it has the "ratio legis," indicates an imperium from which the whole obligation proceeds[5], namely the divine imperium. This judgment of the natural reason indicating

1. Suarez, De Legibus, lib. I, cap. 4, 5 (vid. supra p.49)
2. Ib. lib. II, cap. 5, 14.
3. Ib.
4. Ib. cap. 6, 5.
5. Ib. 6.

what is good or bad "per se" for man, indicates that these things are according to the will of God and are to be done, or contrary to that will and are to be avoided[1].

This will is in God as supreme governor and is the will to oblige his subjects[2]. This will of God to oblige his subjects is not the whole reason for the good and evil which is in the observation of that Natural Moral Law or its violation. It supposes in these acts a certain necessary honesty or malice and to this joins a special divine obligation[3]. The Natural Moral Law is a true and proper divine law whose author is God. The obligation added by the Natural Moral Law to the natural goodness or malice of an act is from the divine will[4].

This statement of Suarez regarding a presupposed or natural honesty and malice in human acts, brings up the difficulty of "necessary morality." In the hypothesis that God never commanded or prohibited the things of the Natural Moral Law, they would still be good or evil[5]. Suarez answers that from this we can only conclude that a certain goodness or malice of human acts does not consist formally in their discord or accord with any law or precept. They are evil but are not prohibited in this hypothesis. Besides, it must be remembered, the "natural"

4. Suarez, De Legibus, lib. II. 8.
5. Ib. 9.
6. Ib. 11.
1. Ib. cap. 6, 13.
2. Ib. 14.

goodness and malice and that proceeding from the precept of the Natural Moral Law cannot actually be separated[1].

Yet these acts would be morally evil, since they are free acts, solely on account of discord with right reason, without a law. In answer to this objection Suarez makes some astonishing statements. He says a human act has goodness or malice from its object precisely considered as it harmonizes or does not harmonize with right reason. From this aspect it can be called evil, a sin and culpable without reference to a proper law. Besides this culpability, a human act has a special reason of good or evil, "in ordine ad Deum," added by divine law. In this second way a human act is called sin or "culpa apud Deum" in a special way, by reason of a transgression of the law[2].

He adds that it is in this way St. Thomas distinguishes sin as against reason and as an offense against God in 1a2æ, q.71, a.6 ad 5um[3]. Thus he, Suarez, says in this case of an act being against reason, the act would be morally evil, a sin and culpable, not however theologically, "in ordine ad Deum[4]". Natural Moral Law truly prohibits everything that is per se evil or inordinate in human acts; without this prohibition these acts would not have ("ut sic dicam") the consummate and perfect "ratio culpæ et offensæ divinæ"[5]. As a final answer we may say that this

1. Suarez, De Legibus, lib. II, cap. 6, 15.
2. Ib. 17.
3. Ib. 18.
4. Ib.
5. Ib. 19.

hypothesis is altogether impossible for God could not refrain from prohibiting what is intrinsically evil and commanding what is intrinsically good[5].

Having established the divine nature of this law and the obligation it imposes, Suarez determines the part played by the judgment of human reason—in which the Natural Moral Law precisely consists. It is a sign of the divine will, it is sufficient promulgation of the will of God and no other is needed to make up the notion of law. The reason for this is not only because the judgment of reason manifests the inconvenience or convenience of these acts, but also because it shows man that the inconvenient acts displease the author of nature, as the supreme Lord and Provider and Governor of this same nature[1].

The material of this law is "bonum ex se honestum" and its opposite; it embraces all the precepts, or moral principles, which have an evident honesty necessary to moral rectitude so that their opposites contain a moral inordination or malice. This is the only law that supposes goodness and malice; other laws make this moral goodness and malice by their statutes[2].

This material can be divided into three classes: (*a*) First principles, such as "Honestum est faciendum, pravum vitandum," "Quod tibi fieri non vis alteri ne feceris" and so on; (*b*) more determined and particular precepts yet still "per

5. Ib. 21.
1. Suarez, De Legibus, lib. II, cap. 6, 24.
2. Ib. cap. 7, 1-4.

se nota," *e.g.* "justitia est servanda," "Deus est colendus," etc.; (*c*) Deductions from these principles, either easily arrived at such as "adultery is evil," or not easily known by all, as "fornication is intrinsically evil," "a lie is never justified," etc.[1].

As characteristics of this law Suarez points out that it is one; that it is universal as to time and subjects, though in the latter respect we must distinguish the law "in actu primo" (light of the intellect) and "in actu secundo" (actual judgment of the intellect). As regards the light of the intellect, the law is absolutely universal; as regards the actual judgment it is universal at least as regards the first principles[2].

This law cannot be abolished from the hearts of men and holds for all states of men[3]; it obliges in conscience[4] and every obligation in conscience is in some way, at least mediately and remotely, the effect of the Natural Moral Law[5]. Punishment does not properly pertain to this law because, although guilt is incurred by its transgression, natural reason cannot define that punishment, so that the quality or quantity of punishment does not properly speaking follow from the "imperium" of any mere natural law. The guilt or "reatus" rather follows from the natural and intrinsic condition of the fault or

1. Suarez, De Legibus, lib. II, cap. 7, 5.
2. Ib. cap. 8, 5 et 6.
3. Ib. 6 et 8.
4. Ib. cap. 9, 2.
5. Ib. 11 seq.

"culpa" so that although the punishment is not determined by the Natural Moral Law, the offender can be punished according to the judgment of a competent judge. Permission has no place in this law because it deals only with the essentially good and evil[1].

The Natural Law is intrinsically immutable, both in general and in particular as long as there remains rational nature with the use of reason and liberty[2]. This does not of course exclude addition to that law for these are not strictly speaking changes of the law, since the law as it existed before these additions still remains intact[3]. When St. Thomas and Aristotle say that some precepts of the Natural Moral Law are changed or cease to exist or suffer exception "in paucioribus," they are speaking of change improperly taken, through a mere extrinsic denomination, by reason of the change in the material. Precepts are of two kinds: those which suffer no change either in themselves or in their material, such as the general principles; the other class consists of those which allow of change in the material with which they deal. It is concerning these latter that it is said they are changed or allow exceptions. The precept, considered in itself, allows of no exception; it seems to in these cases because it has not been sufficiently stated[4].

Although all the precepts of the Natural Moral

1. Suarez, De Legibus, lib. II, cap. 12, 1.
2. Ib. cap. 13, 2.
3. Ib. 1.
4. Ib. 7.

Law are immutable, they are not all equally known. This law cannot be completely erased from the minds of men, but men can remain in ignorance of some of its precepts though it is likely that no one precept is unknown to all men. What one man or one nation is ignorant of, is known by some other individual or nation and *vice versa*[1].

NOTE :—The criticism of Suarez' explanation of Natural Moral Law will be found at the end of the last chapter of this dissertation.

CHAPTER IV.

THE NATURAL MORAL LAW.

IN our consideration of the Natural Law we are limiting ourselves strictly to the Natural Moral Law ; the Natural Law in the sense of physical laws, or the laws governing irrational animals, is without the scope of our discussion. It is necessary, in commencing our study of the Natural Moral Law, to notice also the distinction between the subjective and objective aspect of this law. This distinction was given by St. Thomas at the very beginning of his tract on law[2] and is repeated in almost the same words at the

1. Suarez, De Legibus, lib. II, cap. 13, 10.
2. 1a 2æ, q.90, a.1 ad 1um.

beginning of his tract on Natural Moral Law : " . . . lex, cum sit regula et mensura, dupliciter potest esse in aliquo : uno modo sicut in regulante et mensurante ; alio modo sicut in regulato et mensurato ; quia in quantum participat aliquid de regula vel mensura, sic regulatur vel mensuratur"[1].

This distinction is indeed self evident from St. Thomas' doctrine on law in general for it states merely that law, existing in the legislator, has its correlative in the subject. In the first case it is reason ruling ; in the second it is reason ruled. That there is another aspect of the objective law—namely the order established by law as it is in the legislator and in the subject—is also self evident.

The objective Natural Moral Law, *i.e.* as it exists in the legislator, is nothing more than a part of the Eternal Law itself[2]. The Natural Moral Law subjectively considered is found in man himself, in his participation or subjection to the Eternal Law.[3] The order established by this law as it exists in God and as it is participated by man, is the order of man to his end and to the means by which that end it to be attained. This is so easily perceived that it is passed over by St. Thomas in his tract on the Natural Law. Every law of its very nature, which is to ordain, establishes an order to the end of the law and to the means to that end ; as the end of the Eternal Law is the direction of the universe to its final end,

1. Ib. q.91, a.2 corp. Confer Ib. ad 1um et q.90, a 3 ad 1um
2. 1a2æ, q.91, a.2 corp et ad 1um ; vid supra Chap. II.
3. 1a2æ, q.91, a.2

quite evidently, in its application to man, it establishes such an order. We find this order mentioned expressly in Contra Gentes: "Deus imposuit actibus hominum ordinem aliquem in respectu ad finem boni . . . Oportet igitur quod si ordo ille recte positus est, incedentes per illum ordinem finem boni consequantur, quod est præmiari; recedentes autem ab illo ordine per peccatum a fine boni excludi, quod est puniri"[1].

The subject matter of this chapter is exclusively the Natural Moral Law subjectively considered. We have already treated the objective Natural Law, *i.e.* as it is in the legislator, in explaining the Eternal Law[2]; the objective Natural Moral Law, understood as the order established by that law, is a self evident conclusion given the Eternal Law and its subjects. Our object then will be to discover what the Natural Moral Law is in man; to get some essential notions of this law within man.

Because of the examples used to illustrate the nature of this Natural Moral Law, *e.g.* an illumination, radiation, reflection, impression of the Eternal Law, it is sometimes thought that the Natural Moral Law considered as found in man himself is not strictly speaking the law itself. Rather it is an effect of the participation of the Eternal Law, not the participation itself. To determine accurately the subject matter of this chapter we must analyse some of these examples.

The first of these examples calls the Natural Law an *illumination*, a radiation, a reflection from

1. Contra Gentes, lib. III, cap. 140.
2. vid supra Chap. II.

the Eternal Law[1]. In this example the Eternal Law would be considered as a great light playing upon the interior of man, as the sun plays upon things exteriorly. This would light up all that interior, enabling man to see what was to be seen; in other words allowing man to use his power of sight. But it would not contribute to the things to be seen in any objective sense. That is, the things to be seen would have to be there before, or at least concomitantly with the illumination and independent of it taken formally as illumination. If we suppose that in man there is a chart drawn up containing the plan of action he must follow to reach his end; that in man there is also the power to see and understand this chart; then the illumination coming, enables him to see and understand this chart. The question then would be: what part does this illumination play in the Natural Law? It does not seem to be the essence, for it rather supposes the essence, which man sees by its help. Rather it is a "conditio sine qua non" of the law.

This is taking illumination in its strictest sense; but it is quite probable that theologians, in using this example, did not understand it in just this way. Their meaning most probably was: this illumination, coming from God, enlightens man in a superior way, furnishing him not only with light but also with the order which he must see and observe. Taken in this sense we find three elements in this example: (*a*) the illumination

1. 1822, q.93, a.2 corp; Prummer, Manuale Theologiæ Moralis, Vol. I p. 105 note 17.

strictly so called *i.e.* the application of the Eternal Law to men; (*b*) the light and order *i.e.* that portion of Eternal Law which is applied to men; (*c*) the effect of this illumination in man, The problem is to determine which of these constitutes the essence of the Natural Moral Law. As the second example is slightly more tangible and the problem remains the same, we will examine the second example before commenting on this first one.

As a second example the Natural Moral Law is said to be an *impression* of or participation of the Eternal Law[1]. We can best analyse this example by reducing it to every day terms. Take a definite seal or stamp and with it stamp a bit of warm wax. In this supposition we have three elements: (*a*) the seal itself or the things to be impressed; (*b*) the actual impression of these things, or the act of the hand pressing the seal upon the wax; (*c*) the effect of this impression on the wax.

In the case of the Natural Moral Law, with which we are dealing, these elements could be resolved into: (1) the seal itself—that part of the Eternal Law which is moral *i.e.* which is to be applied to man in contrast to the whole scope of the Eternal Law governing the universe; (2) the actual application of this seal—the application of this portion of the Eternal Law to man; (3) the effects of this impression—the perpetuation of the seal in man, the image of the seal remaining permanently.

1. 1a2æ, q.91, a.2 corp; Ib. q. 106, a.1 ad 2um; Supplem. q.65, a.1

Examining the first of these three elements, we see at once that it cannot answer to the requirements of the essence of the subjective Natural Moral Law; at least this is not what we mean by the subjective side of this law. It is rather what we have already explained in our second chapter, it is strictly in God and is nothing more than a part of the Eternal Law considered apart from the rest.

The second element—the actual impression of the portion of the Eternal Law applicable to men—may perhaps answer to the requirements of the essence of the Natural Moral Law. It answers most closely to the descriptions of the law given by theologians, taking the terms of these descriptions in the strictest sense; for this is strictly "impression." Then too, it makes no presuppositions, it carries the whole content of the law with it. But St. Thomas, in his general tract on law[1] said that law can be of only two kinds; to this our daily use of the word adds a third: (*a*) as law is in the legislator; (*b*) as it is in the subject; (*c*) as it is in some external sign, such as a code of laws, which is really nothing more than a kind of permanent promulgation. Now this actual impression is certainly not in God, the legislator, but rather comes from him. Neither is it in the subject, man, otherwise it would be the third element or the effects of the actual impression. Nor is it in some external sign, such as a book or some other means of promulgation. Rather it would seem to be a

1. 1a2æ, q.90, a.1 ad 1um; Ib. a.3 ad 1um; Ib. q. 91, a.2.

law "in transitu," on its way from the legislator to the subject. This becomes more apparent when we consider that an act of God, such as this actual impression, is executed instantaneously and without the use of an instrument. So that this actual impression can be reduced to a divine precept.

The third element—the effect of this impression in man—has the serious objection against it that it is after all an effect. It is certainly not the law as it is in the legislator; no less certainly is it not law as law is in an external sign, such as a book. But it does answer to some of the requirements for law as it is in the subject. If every law, considered as it is in the subject, is really an effect, the difficulty against this third element will be more or less answered.

Taking the example of human laws, to clarify this last statement, we have the following results. A human law, framed by the legislator, is the efficient cause of the effect it produces in the subject; and that effect is nothing more than the act of reason, by which the subject comprehends the law, and the resulting proposition of reason making this comprehension permanent[1]. And this is exactly law considered as it is in the subject.

In the Natural Moral Law we have a somewhat parallel case. The legislator, God, frames the Eternal Law; this Eternal Law, applied to man, has a very definite effect on man, its subject—an effect far more reaching than the effect of a human law for its permanency and accuracy is

1. 1a2æ, q.93, a.5.

ensured by much more stable means than a mere proposition of reason[1].

It is also to be noted that this third element of which we are speaking, can be called "illumination" or "impression"; thus we say: "this impression is good or bad" meaning that the effect left by the seal on wax is or is not a perfect reproduction of the original seal. This third element, also, makes no presuppositions, as it is the image, the reproduction of the original seal, carrying with it the whole content of the law.

This then will be the object of our investigation: to determine just what these effects of the Eternal Law applied to man are *i.e.* what is the Natural Moral Law in man.

EXISTENCE OF THE NATURAL MORAL LAW.

The existence of the Natural Moral Law could be proved from authority, for example from the Epistle to the Romans, where St. Paul says: "For when the Gentiles, who have not the law, do by nature those things that are of the law; these having not the law are a law to themsleves: Who shew the work of the law written in their hearts, their conscience bearing witness to them, and their thoughts between themselves accusing, or also defending one another".[2] Or it could also be proven from the authority of the Fathers, for example, St. Ambrose and St. Augustine[3]. But Catholics, to whom these proofs would carry

1. 1a2æ, q.93, a.5.
2. Ad Rom. cap. 2, ver. 14-16.
3. Confer Billuart, Tract. De Legibus, Diss. II, art, 2.

conviction, have no need of proofs, they have that characteristic of freely admitting the truths proposed and approved by common sense. And, as will be aparent from the few rational arguments we will offer, the existence of the Natural Moral Law is indeed a truth of the common sense of mankind, taking this term in its most proper, its scholastic sense.

Because of the intimate connection between the Natural Moral Law and the Eternal Law, the most obvious proof of the existence of the former is drawn from the existence of the latter. Thus it is self evident that the Eternal Law exists and is effectively applied to creatures[1]. Indeed this is the only explanation of the order present in the world, an order whose presence every advance of experimental science only confirms. Since the Natural Moral Law, as it is in the legislator, is a part of the Eternal Law—namely the part to be applied to men, a fortiori the Natural Moral Law, as it is in the legislator, exists. The Natural Moral Law as it is in the subjects of that law, *i.e.* in men, is nothing more than the effects of the application of the Eternal Law[2]. Since the Eternal Law is effectively applied, a fortiori these effects exist in men[3].

Proceeding from the effects, instead of from the source of these effects, the existence of the Natural Moral Law is no less evident. The reason of every man, independently of positive laws and indeed

1. confer supra p.21 seq. (Chap.II).
2. vid. supra p. 77 seq.
3. Iaæ, q.91, a.2,

previous to them,, declares that some actions are bad and must be avoided, while others are good and must be done. Since this is precisely the work of moral law, *i.e.* to regulate human actions, to be the rule of those actions, commanding the good and forbidding the bad, it is evident that there is a moral law intimately present to every man. This law we call the Natural Moral Law[3]. Nor is this testimony of conscience an unconscious projecting of Christian morality into the purely natural field, a generalization of what we ourselves know because of our Catholic heritage. This testimony of conscience as to the existence of the Natural Moral Law, is vouched for by such Greek philosophers as Plato, Socrates, Aristotle, and Zeno ;[1] while among the Romans we find Cicero,Horatius, Tacitus, Juvenal not only admitting this law from the testimony of conscience, but extolling it[2].

A third argument, this time explicitly from the order of the world, and proceeding by way of analogy, clearly shows the unreasonableness of the denial of the Natural Moral Law. The universe, which is ordained to an end, is made up of irrational and rational creation. Both of these, being things created, are therefore defectible and need guidance, direction to attain their end and the end of the universe. Since the irrational creation is guided to its end, and thus to the end

3. confer Billuart, l. c.
1. cf. Roland- Gosselin, La Doctrine Politique de S. Thomas D'Aquin p.4
2. cf. Prummer, Manuale Theologiæ Moralis, p. 106, 152.

of the universe, by natural laws in consonance with the diverse irrational natures, it is, to say the very least, fitting that man also be guided to his end and to the end of the universe, by a natural law in consonance with his rational nature, *i.e.* by a natural moral law[3].

ESSENCE OF THE NATURAL MORAL LAW.

Looking through the works of St. Thomas, we find three different explanations of the essence of this law, seemingly contrary one to the other. The first of these places the law in the natural inclinations of man: "Unde et in ipsa (creatura rationali) participatur ratio æterna, per quam habet naturalem inclinationem ad debitum actum et finem; et talis participatio legis æternæ in rationali creatura *lex naturalis* dicitur"[1]. This same notion of the Natural Moral Law is repeated and emphasized time and again, for instance: "Sicut autem homo imprimit denuntiando quoddam interius principium actuum homini sibi subjecto, ita etiam Deus imprimit toti naturæ principia propriorum actuum; et ideo per hunc modum Deus dicitur præcipere toti naturæ . . . Et per hanc etiam rationem omnes motus et actiones totius naturæ legi æternæ subduntur. Unde aliquo modo creaturæ irrationales subduntur legi æternæ, inquantum moventur a divina providentia; non autem per intellectum divini præcepti, sicut creaturæ rationales"[2]. as if to say

3. cf. Prummer, l. c.
1. Ia2æ, q. 91, a.2; Ib. cf. objectionem secundam et responsionem.
2. Ib. q. 93, a.5 corp.

the law was the inclinations, since the government of man by the Eternal Law is the Natural Moral Law, and reason merely recognized this law. In the ex professo tract on the Natural Moral Law we find such as the following: " . . . omnia illa ad quæ homo habet naturalem inclinationem, ratio naturaliter apprehendit ut bona, et per consequens ut opere prosequenda, et contraria eorum ut mala et vitanda. Secundum igitur ordinem inclinationum naturalium est ordo præceptorum legis naturæ"[1]. "Dictum est enim quod ad legem naturæ pertinet omne illud ad quod homo inclinatur secundum suam naturam. Inclinatur autem unumquodque naturaliter ad operationem sibi convenientem secundum suam formam, sicut ignis ad calefaciendum. Unde cum anima rationalis sit propria forma hominis, naturalis inclinatio inest cuilibet homini ad hoc quod agat secundum rationem: et hoc est agere secundum virtutem"[2]. Again: "dupliciter est aliquid inditum homini: uno modo quasi pertinens ad naturam humanam, et sic lex naturalis est lex indita homini"[3].

The second of these explanations, the one favoured by Billuart[4], seems to place the Natural Moral Law in the light of reason itself, *i.e.* in the intellectual potency or faculty before its actual

1. Ia2æ, q. 94, a. 2 corp.
2. Ib. a. 3 corp. cf. Ib. a. 4 corp.
3. Ib. q. 106, a.1 ad 2um; cf. Ib. q. 94 a.2 ad 2um; IV Sent. d. 33, q.1, a.1 corp; III Sent. d. 37, q.1, a.1 ad 3um; Lib. V Ethic. lect. 12.
4. Tract. De Legibus, Diss, II, a 2, Dico 2.

operation[5]. St. Thomas makes direct reference to this in treating ex professo of the Natural Law when he says: " . . . quasi lumen rationis naturalis, quo discernimus quid sit bonum et quid malum, quod pertinet ad naturalem legem, nihil aliud sit quam impressio divini luminis in nobis. Unde patet quod lex naturalis nihil aliud est quam participatio legis æternæ in rationali creatura "[1]. In other parts of the Summa Theologica this idea is brought out very strongly, *e.g.*: " Quod autem ratio humana sit regula voluntatis humanæ, ex qua ejus bonitas mensuretur, habet ex lege æterna, quæ est ratio divina; unde dicitur: Multi dicunt: quis ostendit nobis bona? Signatum est super nos lumen vultus tui, Domine'; quasi diceret: ' Lumen rationis quod in nobis est intantum potest nobis ostendere bona, et nostram voluntatem regulare (the precise ends of law), in quantum est lumen vultus tui' id est a vultu tuo derivatum "[2]. " Licet lex æterna sit nobis ignota, secundum quod est in mente divina, innotescit tamen nobis aliqualiter, vel per rationem naturalem, quæ ab ea derivatur ut propria ejus imago, vel per aliquam revelationem superadditam "[3]. " Sol corporalis illustrat exterius; sed sol intelligibilis, qui est Deus, illustrat interius; unde ipse lumen naturale animæ inditum est illustratio Dei, qua illustramur ab ipso ad cognoscendum ea quæ

5. 1a, q. 12, a.2 (definition of " lumen rationis ").
1. 1a2æ, q. 91, a.2 corp. circa finem.
2. 1a2æ, q. 19, a.4 corp; Same text quoted and same interpretation given in 1a, q. 88, a.3 ad 1um; In Psalm, IV, 5; De Ver. q. 16, a.3 corp.
3. 1a2æ, q. 19, a.4 ad 3um.

pertinent ad naturalem cognitionem; et ad hoc non requiritur alia illustratio, sed solum ad illa quæ naturalem cognitionem excedunt "[4]. In St. Thomas' earlier treatment of this subject, in the Commentary on the Books of Sentences, this explanation is given expressly: " Lex interior est ipsum lumen rationis quo agenda discernimus; et quidquid in humanis actibus huic lumini est consonum, totum est rectum, quod autem contra hoc lumen est, homini est innaturale et malum "[1].

The third explanation given by St. Thomas, places the Natural Moral Law in the result of an act of the practical reason, *i.e.* in the proposition of reason. Thus we find: " ideo est invenire aliquid in ratione practica quod ita se habet ad operationes, sicut se habet propositio in ratione speculativa ad conclusiones; et hujusmodi propositiones universales rationis practicæ ordinatæ ad actiones habent rationem legis; quæ quidem propositiones aliquando actualiter considerantur, aliquando vero habitualiter ratione tenentur "[2]. That this remark does not refer only to law as it is in the legislator is evident from the following in the tract on Natural Moral Law: " Dictum est enim supra quod lex naturalis est aliquid per rationem constitutum, sicut etiam propositio est quoddam opus rationis "[3].

In question 91 we find this significant remark: " Inter cætera autem rationalis creatura excellen-

4. Ib. q. 109, a.1 ad 2um.
1. II Sent, dist. 42, q.1, a.4 ad 3um.
2. 1a2æ, q.90, a.1 ad 2um.
3. Ib. q.94, a.1 corp.

tiori quodam modo divinæ providentiæ subjacet, inquantum et ipsa fit providentiæ particeps, sibi ipsi et aliis providens "[1] and it is only by the *use* of his reason that man provides either for himself or for others. In this same article we find a more explicit statement: "quod etiam animalia irrationalia participant rationem æternam suo modo, sicut et rationalis creatura. Sed quia rationalis creatura participat eam intellectualiter et rationaliter, ideo participatio legis æternæ in creatura rationali proprie lex vocatur; nam lex est aliquid rationis, ut supra dictum est; in creatura autem irrationali non participatur rationaliter; unde non potest dici lex nisi per similitudinem "[2].

In the tract on Natural Moral Law we find this interpretation referred to again and again, for example: "omnes hujusmodi inclinationes quarumcumque partium naturæ humanæ, puta concupiscibilis et irascibilis, secundum quod regulantur ratione, pertinent ad legem naturalem . . . "[3]; "ratio, etsi in se una sit, tamen est ordinativa omnium quæ ad homines spectant: et secundum hoc sub lege rationis continentur omnia ea quæ ratione regulari possunt "[4]. It must be noted that only by an act of reason and the resulting proposition, namely imperium and precept, does the reason regulate and ordain. Again we find: "Unde cum anima rationalis sit propria forma hominis, naturalis inclinatio inest cuilibet

1. 1a2æ, q.91, a.2 corp; more expressly in Con. Gentes, Lib. III, cap 78.
2. 1a2æ, q.91, a.2 ad 3um.
3. Ib. q.94, a.2 ad 2um; cf. ib. corp.
4. Ib. ad 3um.

homini ad hoc quod agat secundum rationem; et hoc est agere secundum virtutem. Unde secundum hoc omnes actus virtutum sunt de lege naturali; dictat enim hoc naturaliter unicuique propria ratio ut virtuose agat "[1] *i.e.* this law consists in a dictate or precept of reason. In this same article this idea is repeated more strongly: "sicut ratio in homine dominatur et imperat aliis potentiis; ita oportet quod omnes inclinationes naturales ad alias potentias pertinentes ordinentur secundum rationem. Unde hoc est apud omnes communiter receptum, ut secundum rationem dirigantur omnes hominum inclinationes "[2].

Frequent reference is also made to this explanation in other parts of the Summa, *e.g.* "ea quæ sunt Dei (among which is the Eternal Law), in seipsis quidem cognosci a nobis non possunt, sed tamen in effectibus suis nobis manifestantur, secundum illud Rom. chap. 1, ver. 20: "Invisibilia Dei, per ea quæ facta sunt, intellecta conspiciuntur "[3]. The word to be noted in the preceding text is "intellecta" *i.e.* understood, or a completed act of the reason. Again: "Lex naturalis nihil aliud est quam conceptio homini naturaliter indita, qua dirigitur ad convenienter agendum in actionibus propriis "[4]. This same doctrine is insisted upon in the other works of St. Thomas[5] but it would serve no purpose to

1. 1a2æ, q.94, a.3 corp.
2. Ib. a.4 ad 3um.
3. Ib. q. 93, a.2, ad 1um; confer. Ib. a.5 corp.
4. Supplem. q.65, a.1.
5. *e.g.* I Sent. d. 39, q.2, a.2, ad 4um; III Sent, d. 37, q.1, a.3; IV Sent. dist. 33, q.1, a.1 corp.; Con. Gent. lib. III, cap. 78, etc.

multiply the texts already cited. This third explanation is also the one favored by many theologians[1].

Though we find these three explanations in St. Thomas, our problem, in searching for the essential notion of Natural Moral Law, is not to choose any particular one of them. An attentive reading of St. Thomas shows that he did not consider these three mutually exclusive. In fact, as can be seen from some of the texts we have already given, he frequently mentions two or even all three of these explanations of the law in the same article. For instance: "Unde cum omnia quæ divinæ providentiæ subduntur, a lege æterna regulentur et mensurentur . . . manifestum est quod omnia participant aliqualiter legem æternam, inquantum scilicet ex impressione ejus habent inclinationes in proprios actus et fines (from this man is not excluded). Inter cætera autem rationalis creatura excellentiori quodam modo divinæ providentiæ subjacet, inquantum et ipsa fit providentiæ particeps, sibi ipsi et aliis providens (and of course it is only by the use of his reason that man provides for himself or for others —third explanation). Unde et in ipsa participatur ratio æterna per quam habet naturalem inclinationem ad debitum actum et finem (first explanation); et talis participatio legis æternæ in rationali creatura lex naturalis dicitur. Unde cum

1. *e.g.* Sylvius in 1am2æ, q.94, a.1; Suarez (for act, not proposition) De Legibus, lib. II, cap. 5 14; among themoderns. Lottin, O.S.B., in Ephemerides Theologicæ Lovanienses, 1925, p. 358; Lehu O.P Philosophia Moralis, p. 239.

Psalmista dixisset: 'Sacrificate sacrificium justitiæ,' quasi quibusdam quærentibus quæ sunt justitiæ opera, subjungit: 'Multi dicunt: quis ostendit nobis bona?' Cui quæstioni respondens, dicit: 'Signatum est super nos lumen vultus tui Domine': quasi lumen rationis naturalis quo discernimus quid sit bonum et quid malum, quod pertinet ad naturalem legem (second explanation), nihil aliud sit quam impressio divini luminis in nobis. Unde patet quod lex natualis nihil aliud est quam participatio legis æternæ in rationali creatura."[1]

Very often St. Thomas mentions the natural inclinations and the dictate or proposition of reason as making up the Natural Moral Law, not making explicit mention of the light of reason, as it is, a fortiori, presupposed in the proposition of reason. Thus treating of the Eternal Law, St. Thomas says God impressed on all nature (thus including rational nature) the principles of the proper actions of each nature; and in this way all nature is subject to the Eternal Law, *i.e.* by way of natural inclination. Irrational creatures are subject to the Eternal Law in as much as they are moved passively by divine providence; but they are not subject to this law through the comprehension of a divine precept, *i.e.* by a proposition of reason, as are rational creatures[2]. Again, in this tract on the Eternal Law, we have the explicit joining of two of these explanations of the Natural Moral Law. St. Thomas gives the

1. 1a2æ, q.91, a.2 corp.
2. 1a2æ, q.93, a.5, corp.

distinction of subjection to the Eternal Law " per modum cognitionis ; alio modo per modum actionis et passionis, in quantum participatur per modum interioris principii." He then says that rational creatures are subject to the Eternal Law in both ways : *i.e.* by the natural inclinations and by the cognitive act of reason[2].

This same combination of these different elements runs through the tract on the Natural Moral Law, *e.g.* " omnia illa ad quæ homo habet naturalem inclinationem, ratio naturaliter apprehendit ut bona, et per consequens ut opere prosequenda, et contraria eorum ut mala et vitanda. Secundum igitur ordinem inclinationum naturalium est ordo præceptorum legis naturæ "[3]. " Ad legem naturæ pertinet omne illud ad quod homo inclinatur secundum suam naturam. Inclinatur tuaem unumquodque naturaliter ad operationem sibi convenientem secundum suam formam, sicut ignis ad calefaciendum. Unde cum anima rationalis sit propria forma hominis, naturalis inclinatio inest cuilibet homini ad hoc quod agat secundum rationem et hoc est agere secundum virtutem. Unde secundum hoc omnes actus virtutum sunt de lege naturali ; dictat (precept or proposition of reason) enim hoc naturaliter unicuique propria ratio ut virtuose agat "[1]. " . . . sicut ratio in homine dominatur et imperat aliis potentiis ; ita oportet quod omnes inclinationes naturales ad alias potentias pertinentes ordinentur

2. 1a2æ q.93 a. 6.
3. Ib. q.94, a.2.
1. Ib. a.3.

secundum rationem. Unde hoc est apud omnes communiter receptum, ut secundum rationem dirigantur omnes hominum inclinationes "[2].

It would seem, then, that St. Thomas placed the Natural Moral Law, not in any one of these three, but in all three taken somehow collectively. A glance at the articles in which St. Thomas treats of the essence of this law makes this point of view quite certain. Thus in question 91, the question of the existence of the Natural Moral Law is proved briefly from the existence of the Eternal Law ; the rest of the article is an exposition of the nature of this law in man, what it consists of in the rational creature[3]. And here we have explicit mention of the inclinations, the light of reason and the result of the act of reason or the proposition, as we have already shown[1]. In the first article of question 94, where St. Thomas is treating ex professo of the essence of this law, he places it unequivocably in the result of the act of reason or the proposition. Then in his response to the " Sed Contra," which in this case is an objection, he says that a boy cannot use the Natural Law, which is within him habitually, " propter defectum ætatis "—which is true of the light of reason and of the natural inclinations, but is certainly not true of the proposition of reason, for this would be sheer Platonism. In the third article of this same question (1a2æ, 94, 3), we find a third exposition of the essence of this

2. 1a2æ, q. 94, a. 4 ad 3um.
3. Ib. q. 91, a. 2.
1. vid. supra p. 87 et 88.

law and here again we see mentioned the natural inclinations of man and the dictate of reason[2].

If then, as seems certain, St. Thomas placed the essence of the Natural Moral Law in these three elements, namely the natural inclinations, the light of reason and the proposition of reason, taken in some way collectively, this should be apparent from his classic definition of the Natural Moral Law. This definition reads : " lex naturalis nihil aliud est quam participatio legis æternæ in rationali creatura"[3]. Examining the terms of this definition we see that we are familiar with the notion of the Eternal Law[1] ; we may reasonably suppose a general notion of the meaning of rational creature. The whole content of the definition, from our point of view lies in the meaning St. Thomas attached to " participation."

This term itself and the ordinary meaning attached to it are well known to all students of scholastic philosophy and theology. The treatment of the fundamental notion of Thomistic philosophy—" ens "—is a perfect illustration of this term " participation." Thus it is said that " ens per se " or " per essentiam " is God alone ; all other beings " participate " this perfection, having it in a limited degree, " per participationem " from him who possesses it in all its plenitude, namely " per essentiam." St. Thomas applies this same notion to law and explains his meaning quite clearly as we have already shown

2. vid. supra p. 85 et 86.
3. 1a2æ, q.91, a.2 corp.
1. vid. supra Chap. II.

in our chapter on the Eternal Law[2]. At first glance this application might seem to be limited to human laws as they are in the legislator ; but a closer reading shows that St. Thomas includes all laws, consequently the Natural Moral Law under this concept of " participation " and this notion is in harmony with the active element of the Natural Moral Law which we will touch on shortly.

Investigating the meaning of this word as used by St. Thomas in relation to the Natural Moral Law, we find that he used it in a triple sense corresponding to the three elements or angles of the Natural Moral Law which we have just explained.

The first element is expressly mentioned as " participated " : " Unde et in ipsa (creatura rationalis) participatur ratio æterna per quam habet naturalem inclinationem ad debitum actum et finem ; et talis participatio legis æternæ in rationali creatura lex naturalis dicitur "[1]. Further on in the same article we find reference to the second element : " quasi lumen rationis naturalis, quo discernimus quid sit bonum et quid malum, quod pertinet ad naturalem legem, nihil aliud sit quam impressio divini luminis in nobis, unde patet quod lex naturalis nihil aliud est quam participatio legis æternæ in rationali creatura[3].

2. vid. supra Chap. II, p. 36-43
1. 1a2æ, q.91, a.2 corp.
3. Ib. cf. etiam De Ver. q.16, a.3 corp ; In Psal. IV, 5 ; Ia, q. 88, a.3 ad 1um.

All three elements are brought out even more clearly in a response to an objection: "etiam animalia irrationalia participant rationem æternam suo modo, sicut et rationalis creatura (*i.e.* by natural inclinations). Sed quia rationalis creatura participat eam intellectualiter (by light of reason) et rationaliter (by proposition or actual use of reason), ideo participatio legis æternæ in creatura rationali proprie lex vocatur; nam lex est aliquid rationis (proposition of reason) ut supra dictum est"[3]. Nor is this a strained interpretation of the words of St. Thomas but a distinction given by the Angelic Doctor himself[1].

This same doctrine is briefly summed up in the Contra Gentes, leaving no room for doubt as to the meaning St. Thomas attached to "participation" in his definition of Natural Moral Law. "Quæcumque creatura exequitur divinæ providentiæ ordinem, hoc habet in quantum participat aliquid de virtute sibi providentis; sicut instrumentum non movet nisi in quantum per motum participat aliquid de virtute principalis agentis. Quæ igitur amplius de virtute divinæ providentiæ participant sunt executiva divinæ providentiæ in illa quæ minus participant. Creaturæ autem intellectuales plus aliis de ipsa participant; nam quum ad providentiam requiratur dispositio ordinis, quæ fit per cognoscitivam virtutem, et executio, quæ fit per operativam, creaturæ rationales utramque virtutem participant: reliquæ vero creaturae, virtutem operativam tantum. Per

3. 1a2æ, q.91, a.2 ad 3um.
1. II Sent. d. 24, a.3 ad 2um; cf. 1a, q.79, a.8.

creaturas igitur rationales, omnes aliæ creaturæ sub divina providentia reguntur"[7].

Because our participation of the Eternal Law by reason is the participation par excellence, mention of it is made even outside of the tract on law. For instance: "Quod autem ratio humana sit regula voluntatis humanæ, ex qua ejus bonitas mensuretur, habet ex lege æterna, quæ est ratio divina; unde dicitur: 'Multi dicunt: Quis ostendit nobis bona? Signatum est super nos lumen vultus tui Domine'; quasi diceret: 'Lumen rationis quod in nobis est, intantum potest nobis ostendere bona, et nostram voluntatem regulare, inquantum est lumen vultus tui, *i.e.* a vultu tuo derivatum'"[1]. "Licet lex æterna sit nobis ignota, secundum quod est in mente divina, innotescit tamen nobis aliqualiter, vel per rationem naturalem, quæ ab ea derivatur ut propria ejus imago, vel per aliquam revelationem superadditam"[2].

The essence of the Natural Moral Law, therefore, is not in an act of reason as Suarez[3] holds, or the result of that act, the proposition, as Sylvius and many modern authors hold[4]. Neither is it in the light of reason as Billuart maintained[5]; nor is it the rational nature itself, the natural inclinations as Vasquez taught[6]. Against each one

7. Contra Gentes, lib. III, cap. 78.
1. 1a2æ, q.19, a.4 corp.
2. Ib. ad 3um. Confer 1a, q.4, a.1 ad 2um for explanation.
3. vid. supra Chap. III, p. 65; confer. supra p. 87, note 2.
4. vid. supra p. 87 note 2.
5. Tract. De Legibus, Diss II, a.2 Dico 2.
6. Vasquez. 1a2æ, disp. 150, cap.3 (quoted by Suarez, De Legibus, lib. II, cap. 5.

of these elements taken separately the traditional teaching on the Natural Moral Law presents insuperable difficulties. For instance : how can an act of reason or a proposition of reason be called innate in a sense as strict as the Natural Moral Law is said to be innate, or how can this act or proposition of reason be present in children, or lunatics, as the Natural Moral Law undoubtedly is ? How can the light of reason or the natural inclinations be called a law in a sense any higher than we attribute law to the irrational creatures, since moral law even in its subject must have the note of being constituted by reason ?

Evidently these three elements must be taken in some way collectively ; no less evident is it that they cannot simply be bundled together and called the Natural Moral Law, at least if we are to keep to the fundamental doctrine on law exposed by St. Thomas in his general tract on law[1]. The interrelation of these three elements and the part each plays in the Natural Moral Law can be quite readily seen from a consideration of the different texts of St. Thomas where he treats of all three together.

Thus St. Thomas says : " . . . per naturalem inclinationem ordinatur homo in finem sibi connaturalem. Hoc autem contingit secundum duo. Primo quidem secundum rationem vel intellectum, inquantum continet prima principia universalia cognita nobis per naturale lumen intellectus, ex quibus procedit ratio tam in speculandis, quam in agendis ; secundo per rectitudinem voluntatis

1. Iaæ, q. 90.

naturaliter tendentis in bonum rationis "[2]. From this text we see that St. Thomas reduces all three of these elements directly to *nature ;* there is no room for freedom here, the three elements flow from the very nature of man and in this sense at least they may be considered of equal value. But is there no definite order between these elements ? Is the order given in this text to be taken strictly ?

We have the answer of St. Thomas in two brief texts. " In his autem quæ sunt ad finem rectitudo rationis consistit in conformitate ad appetitum finis debiti ; sed tamen et ipse appetitus finis debiti præsupponit rectam apprehensionem de fine, quæ est per rationem "[3]. " . . . bonum sub ratione boni, id est appetibilis, per prius pertinet ad voluntatem quam ad rationem : sed tamen per prius pertinet ad rationem sub ratione veri, quam ad voluntatem sub ratione appetibilis ; quia appetitus voluntatis non potest esse de bono, nisi prius a ratione apprehendatur "[1]. Here we have the process clearly stated. First is the natural knowledge of the end by virtue of the natural light of reason ; then the natural desire for this end on the part of the will ; and finally the natural precept of the practical reason flowing from the preceding acts.

This doctrine brings out the dependance of this third element, the proposition of reason, on the other two elements. Indeed it is this very dependance which St. Thomas emphasizes to escape

3. Iaæ, q.62, a.3.
1. Ib. q.19, a.3 ad 2um.
2. Ib. ad 1um.

the seemingly vicious circle involved by saying that the rectitude of the practical reason depends from the rectitude of the appetite, and the rectitude of the appetite depends from the practical reason. St. Thomas clears up this difficulty by explaining: "Appetitus est finis et eorum quæ sunt ad finem: Finis autem determinatus est homini a natura. Ea autem quæ sunt ad finem non sunt nobis determinata a natura, sed per rationem investiganda. Sic ergo manifestum est quod rectitudo appetitus per respectum ad finem est mensura veritatis in ratione practica. Et secundum hoc determinatur veritas rationis practicæ secundum concordiam ad appetitum rectum. Ipsa autem veritas rationis practicæ est regula rectitudinis appetitus circa ea quæ sunt ad finem. Et ideo secundum hoc dicitur appetitus rectus qui prosequitur quæ vera ratio dicit"[1].

We are now in a position to state the problem of the interrelation of thesee thre elements more fully. The precept of practical reason, *i.e.* the proposition of reason resulting from this precept, would seem to be the Natural Moral Law in its very essence if we judge it by the principles laid down by St. Thomas as applying to all law. Thus law being the result of a precept which is itself an act of prudence, deals only with the means and not with the end[2]. And it is this third element alone which deals with the means to the end of man. Moreover St. Thomas says unequivocally

1. VI Ethic. lect, 2 circa media.
2. 222æ, q.47, a.8; Ib. q. 50; 122æ. q. 90, a.4

that law is something constituted by reason[1] and this third element is the only one of the three constituted by reason. This interpretation of the Natural Moral Law as being essentially in the proposition of reason is strengthened by the fact that it is by reason that man is distinguished from other animals, not by his appetite.

On the other hand, this proposition evidently flows from and is immediately dependent upon the natural inclination of man's appetite and the natural light of reason; both of which are no less participations of the Eternal Law than the proposition of reason itself[2]. St. Thomas has stated this angle of the Natural Moral Law when he explained that in this law there is an element common to the Natural Laws governing irrational creation and elements peculiar to man[3]; by the natural inclinations this law is brought into relation with the natural physical laws; by the proposition of reason and the light of reason which it presupposes, it is lifted to heights peculiar to man, *i.e.* to the moral field.

In the Commentary on the Books of Sentences, St. Thomas has made an explicit comparison between the natural physical laws and the Natural Moral Law[4]. He explains that creatures enjoying no cognition are directed to their ends directly by their proper forms; creatures enjoying

1. 122æ, q. 90, a.1 ad 2um; Ib. q. 94, a.1.
2. vid. supra p. 93 seq.
3. 122æ, q.91, a.2.
4. IV Sent. d. 33, q.1, a.1 corp.

sensitive cognition and appetite are directed to their ends by a natural conception on the cognitive side and a natural inclination on the appetitive side; it is the latter that would seem to be the superior of the natural conception in the matter of directing the creature to its end. But in man, this natural inclination, while still present, cedes its superior position to the natural conception because—the reason is that given by St. Thomas—man knows the end and the proportion of the means to the end. The chief element in the direction of man to his end is not his appetite but his reason, for man directs himself; it is the contrary in the brutes because they do not direct themselves but are driven by another, it is not their intelligence, but another's that is responsible for the direction.

With the superiority of the proposition definitely established as regards the essential nature of Natural Moral Law, there is a temptation to dispose of the natural inclinations by applying the doctrine of St. Thomas regarding precept to this question[2]. Thus the natural inclination takes the place of the act of election in regard to the ordinary "imperium" *i.e.* the natural inclinations are presupposed in the proposition of reason just as election is presupposed and participated by the imperium of the intellect; and, carrying the parallel further, the Natural Moral Law consists essentially in the proposition of reason, just as the "imperium" is essentially an act of reason. But

2. vid. supra Chap. I p. 7 seq; Chap. III, p. 54 seq.

the comparison is not so perfect. It is true that the natural inclination of man's appetite gives the motive power to the precept of reason, as does election to the imperium of reason; but over and above this, this natural inclination "per respectum ad finem est mensura veritatis in ratione practica"[1].

Thus it is clear that the Natural Moral Law is inadequately described unless all three of these elements are taken into consideration. While the precept of natural reason undoubtedly plays the major part, yet it would be unintelligible as a Natural Moral Law without the inclusion of these other two elements which are, as it were, the proximate sources of the proposition of reason.

Taken in this collective sense, this essential notion of law which we have explained answers all these difficulties from the traditional teaching. This will be even more evident when we have finished with our explanation of the Natural Moral Law. Nor does this inclusion of three elements detract from the general principle laid down by St. Thomas concerning law, namely that it must be something constituted by reason[2]; rather it maintains this principle and at the same time emphasizes the superiority of the Natural Moral Law in comparison with positive laws.

St. Thomas himself points out some of these elements of superiority. Thus we see clearly how far superior the Natural Moral Law is to human law by the contrast between the feeble im-

1. vid. supra p. 98; et Ib. note 1.
2. Iazæ, q. 90, a.1 ad 2um.

pression of a rule of action on the mind of a subject by the precept of a human legislator and the impression by God of His law on the very nature of his subjects, making it an integral part of their being through the natural inclinations and the light of reason and insuring its intelligent observation by means of the natural conception or proposition of reason[2]. The reason for this is given somewhat laconically by St. Thomas when he says: "lex naturalis est quædam participatio legis æternæ in nobis; lex autem humana deficit a lege æterna"[3]. The one is human, the other divine; the one has the limited effectiveness to be expected from its human authorship; the other penetrates the very being of its subject with all the penetrating intimacy of things divine.

This explanation of the essence of the Natural Moral Law brings out clearly another superiority of the Natural Moral Law over human law—that is the active element of this law in man. Man is not merely a passive subject obeying a law: he participates, in a way, in the active, the legislative side of the law. He plays a dynamic part, or, as St. Thomas puts it, he participates in divine providence in a special way, providing for himself and for others[1]. This gives the Natural Moral Law a completeness that leaves nothing to be desired and at the same time, completes the picture of man as participating the Eternal law

2. Ib. q. 93, a. 5 corp; et ad 1um.
3. Ib. q. 96, a.2 ad 3um.
1. 1a2æ, q. 91, a.2; conf. Contra Gent. lib. III, cap. 78.

"per modum imaginis." For in man, over and above the natural inclinations by which he passively participates the Eternal Law in common with irrational creatures, and the light of reason by which he passively participates it in a manner proper to himself, there is an active participation of this law by the act of reason and the proposition constituted by this act by which man provides both for himself and for others[1].

There is one difficulty to be cleared up in regard to this explanation of the essence of the Natural Moral Law, namely, the determination of the exact nature of this third element, the proposition of reason. We shall treat of this immediately in explaining the precepts of the Natural Moral Law.

CHAPTER V.

CONNECTED PROBLEMS: CRITICISM OF SUAREZ.

PRECEPTS OF THE NATURAL MORAL LAW.

WE can best understand this third element of the Natural Moral Law—the proposition of reason—by considering it in its origin. The first thing a man knows in the speculative order, *i.e.* the purely intellectual order without any proximate ordination to action, is "being"—"ens." The reason for this is that this notion is included in everything that man

apprehends; nothingness is incomprehensible. Thus the first principle of the speculative order is that founded on the notion of being, namely the principles of identity and contradiction[1].

Coming down from the speculative order to the order of action, the practical order, we see that the first thing apprehended by the practical reason is the notion of good. The practical reason ordains its knowledge to a definite work or operation; that is, it understands, not merely for the sake of understanding, but to apply this knowledge to operation. In this work or operation, man always aims at some end; and this end in itself includes the notion of the good—" bonum." The parallel is quite perfect: just as in the speculative intellect everything apprehended includes the notion of being, which is the principle of comprehension; so in the practical order, everything apprehended includes the notion of the good, for it is the good, constituted as end, which draws men to actual operation and which is consequently the first mover of the practical order, the starting point of all action. So in the practical order, the first principle is that founded on the notion of good. The basic notion of good is its desirability; it might be stated as: "good is what all desire." The principle founded on this notion is: " Good is to be done, evil is to be avoided "[1].

This principle St. Thomas calls the first precept of the Natural Moral Law[1]. It is the third of the essential elements of the Natural Moral Law

1. 1a2æ, q. 94, a.2 corp.

which we have explained above for it includes all other precepts. Moreover it is naturally known, that is, it is a first principle, known as soon as its terms are understood, in this case, from the dawn of reason. This is apparent if we thoroughly understand the principle. The purpose of the inclinations of man are to direct him to his end, since they are a part of the Natural Moral Law[2]; as this end, like all ends, includes the notion of good, everything to which the natural inclinations of man incline him, will be judged to be good by the practical intellect and consequently to be done. The things contrary to these inclinations, since they will lead a man away from his end and consequently from the good, will be apprehended, naturally, as bad and to be avoided[1]. It is to be particularly noted that this apprehension is natural, *i.e.* it is not free; the principle is known of itself, just as the first principle of the speculative order is known immediately without reasoning or investigation[1]. It is a part of that participation of the Eternal Law which is the Natural Moral Law. It comes as naturally to a man as do his natural inclinations and the natural light of reason, but is none the less, eminently reasonable[2].

CLASSIFICATION OF THE PRECEPTS.

(*a*) *According to The Order Of Origin*[1].

Since the foundation of the notion of good and bad apprehended by the practical intellect is the

1. 1a2æ, q. 94, a.2
2. vid. supra chap. IV, p. 88 seq.

convenience or inconvenience to the natural inclinations, it follows that we can classify these precepts (which are commands to do the convenient and avoid the inconvenient) according to the classification of the inclinations themselves. This classification is triplex :[1]

1. Those precepts which proceed from the natural inclinations which man has in common with all substances, namely the inclination to conserve his existence. Such precepts are those pertaining to the conservation of human life.
2. Those precepts which proceed from the natural inclinations man has in common with other animals. Such precepts are those commanding the generation and education of children, etc.
3. Those precepts which proceed from the natural inclinations which are proper to man himself, *i.e.* as a rational creature. Such are : that he avoid ignorance (in accordance with his natural inclination to know truth) ; that he must not offend others with whom he should live (according to his inclination to live in society), etc.

This division is evident. But it must be noted that those precepts of the first and second class, in as much as they are human acts and hence subject to Natural Moral Law, are no less rational than those of the third class. Though man's nature is virtually vegetative and sensitive, it is formally

1. 1a2æ, q. 94, a.2; ad 2um; ad 3um; Ib. a.4 ad 3um.

rational and this rational form extends its empire to all of man's deliberate actions, even though they proceed directly from other potencies[1].

(*b*) *According to The Cognoscibility of The Precepts:*

This second classification might also be called the order of proximity to nature, or the order of defectibility or indefectibility. But as all these points will be brought out as our treatment of the precepts proceeds the present title will be comprehensive enough. This classification is also triplex :

1. *Primary Precepts*—those which are indemonstrable principles, " per se nota," like those of the speculative order[2]. These flow from nature itself, are taught by nature and need no other promulgation[3]. Such are, for instance, " Bonum est faciendum, malum vitandum "[3].
2. *Secondary Precepts*—which are immediate conclusions from the primary precepts[4]; are seen with very little consideration by even the unlearned[5] ; flow from nature itself through the primary precepts and reason[6] and thus pertain directly to the Natural Moral Law. Such precepts are the Ten Commandments[7].

1. 1a2æ, q. 94, a.2 corp; Ib. a.4; a.6; Ib. q. 100, a.11.
2. Ib. q.100, a.3; Ib. a.11.
3. Ib. q.94, a.2.
4. Ib. a.4 corp et ad 2um; a.5; q.100, a.11. Mentioned also in 1a2æ, q.94 a.6, corp, ad 1um, ad 3um; q. 97, a.4 ad 3um.
5. 1a2æ, q. 100, arts. 1, 3, 11.
6. Ib. a.11 ad 2um. vid. note 4 of this page.
7. Ib. a.3 et a.11.

3. *Remote Conclusions*—from these first and secondary precepts. They demand long consideration and can be discovered by the wise only[8]. The reason being that in contingent things, in which fall human operations, the closer one descends to proper or particular things, the greater are the probabilities of defect and error[1].

This same triplex division is to be found in the other works of St. Thomas with the same explanation of each division[2]. But it is to be noted that in the tract on the Natural Moral Law itself, St. Thomas mentions only the primary and secondary precepts. The reason for this is quite evident. The primary precepts are a part of the essence of the Natural Moral Law itself, making up the third element—the proposition of reason; the secondary precepts are so intimately connected with these primary precepts, are seen by everyone with no other help than that of nature itself, that they are intimately a part of the law. The remote conclusions are not so intimately bound up with the very essence of the law, since their discovery is limited to the learned and they demand such long thought over and above the teachings of nature itself.

The reason for classification is nicely stated by St. Thomas when he explains that law is the art of ordaining human life; like all arts it should have

8. Ib. a.1; a.3; a.11.
1. 1a2æ, q. 94, a.4 corp.
2. *e.g.* Lib. V Ethic. lect. 12; III Sent. d.37, q.1, a.3; IV Sent. d. 33, q.1a.1 (explains only primary and secondary precepts).

a distinction of rules or precepts, otherwise the confusion of precepts will destroy the utility of the laws[1]. This general reason is supplemented by a profound explanation of this triplex classification which we will treat under the heading of "the scope of the precepts of the Natural Moral Law." But first it will be necessary to explain the distinction of law and precept.

DISTINCTION OF LAW AND PRECEPT.

The origin of this difficulty in speaking of law in general is evident from our treatment of law in our first chapter, where we showed that St. Thomas evidently defined law as a precept and also that there is a great deal of variety of opinion among the authors as to just what distinction should be placed between law and precept[2]. From our explanation of the essential nature of the Natural Moral Law, this difference in regard to the Natural Moral Law is immediately apparent since the precept or proposition of reason is, at most, but one of three essential elements of the law[3]. Taking the active element of the Natural Moral Law alone, the proposition of reason, we see that St. Thomas identifies it, at least as regards the primary precepts, with the precepts; and this is in accordance with his general doctrine on law, taken as it is in the subject.

He defines law as a common precept[4]. Yet he says that precept implies the application of the

1. 1a2æ, q.104, a.4 corp.
2. vid. supra Chap. I, p. 6 seq; p. 17 seq.
3. vid. supra Chap. IV, p. 88 seq.
4. 1a2æ, q. 98, a.6 ad 2um; Ib. q.90, a.1; Ib. a.2; Ib. q.92, a.2 ad 1um.

law to the things regulated by the law[2], thus apparently contradicting himself. A more attentive reading shows that this is not a contradiction but a full expression of the thought of St. Thomas on precepts. It will be noted that he does not say that precept is the application of the law, as does Cajetan[3], but that it *implies* this application[4]. His real thought is that the precepts can be considered from a double point of view: either from the standpoint of their common order to the same end; or from the standpoint of the particular things to which they imply an application. In the first sense, the common or universal precepts coalesce into one and coincide with positive law as it is in the subject, and, in the case of Natural Moral Law, with the active element of the Natural Moral Law—the proposition of reason. In the second sense they are multiple and can be said to be distinct from the law[5].

It is evident that St. Thomas thus uses the word precept in a sense much wider than we give the word to-day; indeed he says as much expressly[1]. It is also evident from the whole context of his tract on law, for example he says quite plainly, speaking of the most general, or primary precepts of the Natural Moral Law, that they are really the ends of the precepts, *i.e.* taking precepts in the narrower sense in which we use the word to-day[1].

2. Ib. q. 90, a.2 ad 1um.
3. Cajetan in 1am2æ, q.90, a.2 ad 1um.
4. 1a2æ, q.99, a.1; Ib. ad 1um; Ib. q.94, a.2 ad 1um.
5. Ib. q. 92, a.2 ad 1um.
1. 1a2æ, q.100, a.11 corp.

In a wide and improper sense, all virtues may be said to fall under the Natural Moral Law. That is, if we consider them, not precisely as virtues, but as acts of reason and consequently according to reason. The explanation of this is quite simple. Those things to which man has a natural inclination are said to pertain to the Natural Moral Law; man has a natural inclination to act according to reason since every being has the inclination to act according to its form and the rational soul is the form of man[2]. In this sense all sins are against nature because all sins are against reason[3].

Considering virtues according to their proper species, that is precisely as virtues, and not from the general aspect of acts of reason, the scope of the precepts of the Natural Moral Law is much more limited, since "much is done according to virtue to which nature does not immediately incline a man"[4].

Properly speaking the scope of the precepts of the Natural Moral Law is really a corollary from the doctrine of the essence of this law[5] and the nature of the precepts[6]. The purpose of the inclinations (a part of the essence of the law) is to lead man to his end. Hence what is opposed to

2. Ib. q.94, a.3.
3. Ib. ad 2um.
4. Ib. a.3 corp.
5. vid. supra Chap. IV, p. 88 seq.
6. vid. supra p. 103 seq (Chap. V.)

these inclinations, and consequently to reason[3], will be opposed to his attaining his end. Since this end has the "ratio boni," these things opposed to the attainment of the end will have, in themselves, the "ratio mali" *i.e.* they will be "in se mala"[4], This is the meaning of St. Thomas when he lays down the general rule: "tanto aliquid magis a ratione suscipitur quanto contrarium est gravius et magis repugnans rationi"[5].

This opposition to the attainment of the end can be of three kinds or degrees: (*a*) such as will altogether prohibit the attainment of the principal end of man; (*b*) such as will make its attainment less congruous, less becoming; (*c*) such as will make impossible the attainment, not of the primary end of man, but of a secondary end[6]. It will be noted at once that these "in se mala" or things opposed to the end of man, fall into a division corresponding to the order of precepts according to their cognoscibility[1]. It is these "in se mala" and their opposites, "in se bona," which are the proper matter of the precepts of the Natural Moral Law[2].

The correctness of this limitation of the scope of the precepts of the Natural Moral Law to "in se bona" et "in se mala" receives a confirmation from a momentary consideration of the

3. vid. supra Chap, V, p. 104, 105; Ib. p.111.
4. IV Sent. d.15, q.3, a.1 sol. 4.
5. 1a2æ, q.100, a 6 corp.
6. IV. Sent. d. 33, q.1, a.1 corp.
1. vid. supra, Chap. V, p. 107 seq.
2. IV Sent. d. 15, q. 3, a.1 sol.4; 1a2æ, q.100, a.1; II Sent. d. 42, q.2, a.5.

intention of the legislator in framing the law and of the ordinary course followed in nature. From the first point of view, it is evident that the intention of the legislator was to lead men to virtue; hence in assigning the precepts, he used the "way of virtue" *i.e.* proceeding "ex his quæ in promptu sunt, in difficiliora tendatur," as is also the method employed in purely speculative cognition[3]. It was necessary to start from the very elementals; and it is with these elementals that the Natural Moral Law deals: "precepta legis naturæ communia sunt, et indigent determinatione. Determinantur autem et per legem humanam, et per legem divinam. Et sicut ipsæ determinationes quæ fiunt per legem humanam, non dicuntur esse de lege naturæ, sed de jure positivo; ita ipsæ determinationes præceptorum legis naturæ quæ fiunt per legem divinam, distinguuntur a præceptis moralibus, quæ pertinent ad legem naturæ"[4]. It was not necessary to command all acts of virtue..this would be perfection; but only those "quæ primo occurrunt facienda" *i.e.* those things without which the order of reason (the order to an end) could not be observed[1].

Looking at the order observed in the workings of the things of nature we have another confirmation of this limitation of the Natural Law to the very fundamentals. "Sicut enim natura ex parvis seminibus in maximas arbores proficit, ita etiam et lex ex his quæ in principio et in promptu

3. III Sent. d. 37, q.1, a.2, sol. 1.
4. 1a2æ, q.99, a.3, ad 2um; Ib. a.4, corp.
1. III Sent. d. 37, q.1, a.2 sol.1.

sunt, in alia procedit, quæ sunt quandoque difficiliora et perfectiora "[2].

STABILITY OF THE PRECEPTS.

In treating of the stability of the Natural Moral Law, we limit ourselves to the precepts because it is self evident that the natural inclinations and the light of reason are absolutely immutable and universal, being an intimate part of human nature[3]. Nor is there any difficulty about a change in the law by way of addition, since the law remains intact after such a change as before it[4], the only difficulty arises from a change in the law by way of subtraction *i.e.* something that was formerly a part of the law, ceases to be so. Considering the precepts in order we find :

1. *Primary Precepts*—are the same everywhere and are equally known by all[5]. They are absolutely immutable[6] and hence can never be erased from the heart of man[7]. St. Thomas shows that the particular application of these universal principles may be erased from the heart of man in several ways, for instance through a lack of attention, or on account of some impediment, such as corporal infirmity or through passion[8]. But

2. Ib. ad 2um.
3. De Veritate, q.16, a.3 corp et ad 5um.
4. 1a2æ, q.94, a.5.
5. 1a2æ, q.94, a.4 corp ; V Ethic. lect. 12.
6. 1a2æ, q.94, a.5 ; III Sent. d.37, q.1, a.3 ; IV Sent. d.33. q.1, a.1.
7. 1a2æ, q.94, a.6.
8. Ib. q.99, a.2 ad 2um ; Ib. q. 77, a.2 ; confer De Ver. q. 16, a.3 et q. 17, a.2 ; II Sent. d. 24, q.3, a.3 corp. et objectiones.

this is really the work of conscience and has no direct relation to the present question.

2. *Secondary Precepts*—are the same everywhere, " ut in pluribus," both as regards the precepts in themselves (" quantum ad rectitudinem ") and as regards their recognition by men[5]. That is to say, they are morally universal, to be found in the very great majority of men. St. Thomas warns us that we are dealing here with human things and must not expect a metaphysical certitude : " non est eadem certitudo quærenda in omnibus,' ut dicitur. Unde in rebus contingentibus, sicut sunt naturalia et res humanæ, sufficit talis certitudo ut aliquid sit verum ut in pluribus ; licet interdum deficiat in paucioribus "[1]. By way of exception, " ut in paucioribus," these secondary precepts may be changed :
   (*a*) Quantum ad rectitudinem—*i.e.* as regards the binding force of the precepts considered in themselves, on account of some particular impediments[2]. A closer reading of this text, and a comparison with parallel passages in the commentary on the Books of Ethics[3] and the Third Book of Sentences[4], makes it evident that St. Thomas means that

5. 1a2æ, q.94, a.4.
1. 1a2æ, q.96, a.1, ad 3um.
2. Ib. q.94, a.4.
3. V Ethic. lect. 12.
4. III Sent. d. 37, q.1, a.3 sol.

circumstances may change the particular material which otherwise would fall under these precepts, but which because of these new circumstances, is no longer the proper material of these precepts. This is particularly evident from the example St. Thomas repeats again and again, namely:[5] a deposit should be returned to the depositor, but in the case, for instance, that it was a weapon which was deposited, and at the present moment the depositor calling for his property is in such a state of mind (through anger or insanity, for example) that he would certainly do some harm were the weapon given to him. Evidently the precept of justice, commanding that his property be returned to him, does not bind. It is also evident that this is really a change in the material and not a change in the precept, as a full statement of the precept would make clear.

(*b*) Quantum ad notitiam—that is, as regards the knowledge men have of these precepts[1]. For this failure of the Natural Moral Law, St. Thomas assigns three causes[2]: depraved reason, thus a man is not able to draw these evident conclusions from the primary precepts;

5. *e.g.* III Sent. l. c.
1. 1a2æ, q.94, a.4; Ib. q. 99, a.2 ad 2um.
2. Ib. q.94, a.4; confer. Ib. a.6.

evil customs which, preceeding the proper use of reason or stifling it, hide the evidence of these conclusions; corrupt habits, or as St. Thomas calls it in another place[3], "defectus amor boni" *i.e.* a perversion of the appetitive faculties.

3. *Remote Conclusions*—the general rule concerning these conclusions can be found briefly stated in this tract on Natural Moral Law, though St. Thomas does not treat of them explicitly in this place. He says: "si in communibus (intellectus practici) sit aliqua necessitas, quanto magis ad propria descenditur, tanto magis invenitur defectus"[4]. Their varability is easily seen when we consider that their recognition demands a long consideration of diverse circumstances and is limited to the wise[1]. Thus we see at once three very potent sources of variety and of error: (*a*) the lengthy consideration involved giving room for the variety and admixture of error that follows on the lengthy intellectual labors of individual men; (*b*) the variety of circumstances, different in almost every case; (*c*) the actual intellectual capacity of the man drawing these conclusions. It is then evident that these remote conclusions are not everywhere the same, nor are they equally known

3. III Sent. d.37, q.1, a.1; confer. 1a2æ, q. 94, a.6.
4. 1a2æ, 94, a.4.
1. 1a2æ, q.100, a.1 corp.

by all men; and they can very easily be erased from the minds of men by any of the causes assigned for the corruption of the secondary precepts as regards their recognition, as well as by the three causes assigned for the variety of these remote conclusions themselves.

The stability and varability of the precepts of the Natural Moral Law will be seen more clearly if we glance for a moment at their causes. The primary precepts, as we have already explained, are a part of the essence of the Natural Moral Law, as immutable as the natural inclinations and the light of reason in man[2]. As in the inclinations and the light of reason, liberty has no part to play, there is no chance for human error, for these primary precepts are evident in themselves, forcing the assent of the intellect. Because of this, some have traced the immutability of the Natural Moral Law to the immutability of the essentials of human nature; and this is true if rightly understood. But St. Thomas would leave no room for misunderstanding, seeking out the source of this immutability and stating it plainly: "lex naturalis et divina procedit a voluntate divina . . . unde non potest mutari per consuetudinem procedentem a voluntate hominis"[1]. The real root of this immutability is the Eternal Law; these primary precepts are a part of the impression of that law on man.

Because of the intimate connection between

2. vid. supra, Chap. IV, p. 88 seq.
1. 1a2æ, q.97, a.3 ad 1um.

the primary and secondary precepts, St. Thomas admits no real objective change in the secondary precepts. The change he does admit, as regards their recognition by men, and the variability of the remote conclusions is due to the entrance of the human factor—what St. Thomas frequently calls the "mutability of human nature." Among such human factors he mentions diverse conditions and states of men, diverse conditions of persons, times and other circumstances, etc.[2].

DISPENSATION FROM THE PRECEPTS.

All theologians are agreed on the question we have just treated, namely that there can be no intrinsic change in the precepts of the Natural Moral Law. The dispute about the mutability of these precepts is in reference to the external mutability of this law or the possibility of dispensation from it. There is no question about the primary precepts of the Natural Moral Law, all theologians being agreed that there can be no dispensation from these precepts; the question centers about the possibility of a dispensation from the secondary precepts, *i.e.* from the ten commandments. And even here, the question is strictly limited to divine authority granting the dispensation[1].

To understand this question thoroughly it is necessary to distinguish the two kinds of dispensation: dispensation properly and improperly

2. Confer 2a2æ, q.57, a.2 ad 1um; Supplem. q.41, a.1 ad 3um; Ib. a.2 Ib. a.4; Ib. q.65, a.2 corp et ad 1um; De Malo, q.2, a.4 ad 13um; 1a2æ, q.94, a.3 ad 3um; Ib. q.66, a.1.
1. Quodlib. 4, art. 13.

so called. Dispensation, properly taken, is defined as : " relaxatio legis seu ejus obligationis in aliquo particulari facta ab habente potestatem, manente materia legis sic immutata ut ejus obligatio remaneret si non accederet auctoritas dispensantis"[2]. Improper dispensation is had : " quando legislator vel alter sic mutat materiam legis, ut desinat comprehendi sub lege "[3].

The question to be solved is : whether God, by His absolute power, can dispense from the Ten Commandments.

St. Thomas answers without any qualification, that the precepts of the Decalogue are altogether indispensable[1]. The foundation of this position of St. Thomas is readily seen from our exposition of law in general and the Natural Moral Law in particular.[3] These precepts do not depend on the will of God ; they are not extrinsically but intrinsically valid, for the Natural Moral Law, like all law, is essentially the work of reason not of will ; in this case it is the divine reason which cannot be changed. Billuart offers further proof of this position by pointing out that God cannot dispense from a necessary law and the Natural Moral Law is necessary supposing the will of God to create man ; that the precepts of the Natural Moral Law are founded in the nature of man ; and that the Natural Moral Law is really a part of the Eternal Law if we take the former law objectively, while subjectively it is a participation of the Eternal

2. Billuart, Tract. de legibus, Diss. II, art IV.
1. 1a2æ, q.100, a.8.
3. vid. supra p.1 seq. et p.72 seq.

Law—all of which are very solid arguments against the possibility of dispensation[5]. But the fundamental and adequate reason against dispensation is that drawn from the intrinsic nature of this law as a work of divine reason.

St. Thomas sums up his position when he says : " Et in hoc Deus dispensare non potest, ut homini liceat non ordinate se habere ad Deum vel non subdi ordini justitiæ ejus, etiam in his secundum quæ homines ad invicem ordinantur "[1]. This is precisely and exclusively the work of the Natural Moral Law—to ordain man to his end ; its precepts touch only those things that of themselves lead man to this end or of themselves lead man away from this end[2]. The distinction placed on these words of St. Thomas by Scotists—that if there were a divine dispensation from these precepts their violation would no longer be an inordination—rests on the assumption that the Natural Moral Law and the consequent moral goodness and malice of human acts governed by it are extrinsic things. We have already treated of this point of view in exposing St. Thomas' notion of the essence of the Natural Moral Law[3] ; the fallacy of this position will be more apparent from a discussion of the obligation of the Natural Moral Law and from our criticism of Suarez[4].

Suarez is in complete agreement with this

5. Billuart, l.c.
1. 1a2æ, q.100, a.8 ad 2um. cf. Ib. q.104, a.1 corp.
2. vid. supra p. 104 seq.
3. vid. supra p. 95 seq.
4. vid infra p. 130 seq et 147 seq.

doctrine of St. Thomas on dispensation from the Natural Moral Law[5]. Nor is he illogical in this position, in spite of his holding, with Scotus[6], that the Natural Moral Law depends essentially on the will not on the reason of God, and is thus extrinsic[1]. The morality caused by the Natural Moral Law is indeed distinct from the "natural honesty and malice" of acts, according to Suarez, yet de facto these two moralities are inseparable and God cannot refrain from commanding and prohibiting the acts which form the subject matter of the Natural Moral Law[2].

Against this position of the absolute indispensability of the Natural Moral Law, is the opinion of Scotus. According to Scotus[3] precepts can be said to pertain to the Natural Moral Law in two ways: strictly speaking and taking the word in a larger sense. Those precepts pertain to the Natural Moral in the first way which are necessary practical principles, known as soon as their terms are known, or necessary conclusions from these principles. Such are the first two precepts of the Decalogue. Speaking less strictly, a precept is said to pertain to the Natural Moral Law, not because it follows necessarily from the principles of that law, but because it is very much in harmony with that law ("multum consona illi legi").

5. Suarez, De Legibus, lib. II, cap. 15.
6. Scotus, Commentaria in IV libros Sententiarum; lib. I, d.44, 2.
1. vid. supra p. 65 seq.
2. vid. supra p. 67 et 68; et lib. II De legibus, cap. 15, 4.
3. Scotus, Commentarium in III Sent. d. 37, q. unica, 5 seq; et in IV Sent. d. 17, q.1, 3.

According to Frassen, a trustworthy commentator of Scotus, both of these classes of precepts are strictly a part of the Natural Law. The second class, or those merely in harmony with the principles of the Natural Moral Law, are properly and strictly a part of natural law and they oblige independently of the act of any will commanding or prohibiting; the others, the first two precepts of the Decalogue, are most strictly a part of the Natural Moral Law, so strict that they admit of no dispensation even by the absolute power of God[1]. But from his explanations given in other places[2] it is evident that by "any will" Frassen here means positive law, being quite willing to concede a dependence of these precepts on the will of God, which is indeed the basis of dispensation. He may be stretching the meaning of Scotus a bit in making all the precepts of the Decalogue pertain strictly to the Natural Moral Law, for Scotus himself used such expressions as "multum consona illi legi,"[3] "esse de lege naturæ large loquendo"[4] and "stricte loquendo nihil aliud est de lege naturæ, nisi principium vel conclusio demonstrata; sic tamen extendendo quandoque dicitur esse de lege naturæ etc"[5] as descriptive of these last seven precepts of the Decalogue.

Scotus places still another distinction in the precepts, pointing out that every precept has a

1. Frassen, "Scotus Academicus, Vol. VI, p. 67.
2. Ib. *e.g.* p. 75, 90.
3. Scotus Commentarium in III Senten. d. 37, q. unica, 8.
4. Ib. circa finem.
5. Scotus, in IV Senten, d. 17, a.1, 3.

double element: negative and positive. When a precept is simply negative, then the affirmative precept implied in it only determines the means conducive to the observance of this negative precept; when the precept is simply affirmative, then the negative precept involved in it determines only the medium necessary for the observance of the affirmative precept[1].

These distinctions being placed we are in a position to state Scotus' theory, which is: God, by his absolute power, can dispense, in the strict sense of the word, from the precepts of the Decalogue which do not refer directly to God, with the exception of the precept against lying[2] and perhaps from the precept referring to the worship of God, taking this precept as regards its affirmative element[3]; God cannot dispense, even by his absolute power, from the first two precepts of the Decalogue and from the third precept taken negatively[3].

For purposes of criticism we need only take the first part of this thesis, for it is here precisely that the question centers. This opinion of Scotus rests on whether or not these precepts of the Decalogue which do not refer to God, *i.e.* the last seven, pertain to the Natural Moral Law as necessary conclusions from the principles of the law. Our whole exposition of the precepts of the Natural Moral Law according to St. Thomas was a proof that they are such necessary conclusions; consequently Scotus arguments will rather be of a negative character, tending to disprove this position of St. Thomas. Scotus offers three arguments to prove his position, which are admirably summed up and criticised by Cajetan[1]. We are following the criticism of Cajetan.

1. Scotus, in III Sent. d. 37, 7; Frassen, l.c. p.84
2. Scotus. l.c. 5 seq; Frassen, l.c.
3. Scotus, l.c. 6; Frassen, l.c. p. 91, seq.

First Argument[2]: These precepts do not pertain to the Natural Moral Law as necessary principles or as necessary conclusions from the principles of the Natural Moral Law. This is easily seen, because if they did, they would be altogether indispensable, whereas de facto God granted dispensations from them, *e.g.* the command to Abraham to kill his son. That these precepts would be indispensable follows from the fact that such necessary conclusions are true in themselves before a relation exists to an intellect; so the divine will could not be good or right (recta) in willing their opposites, consequently it could not dispense.

Criticism: the fact alleged is not an example of true dispensation, as can be seen by the explanations in all the authors[3]. As to the reason brought forth to prove that these precepts would be altogether indispensable if they were necessary conclusions from the principles of the Natural Moral Law, it is quite true and is indeed the position of the Thomists. It has no demonstrating effect here because the will of God did not will the opposites

1. Cajetan in 1am2æ, q.100, a.8.
2. Scotus, l. c. d. 37, 4.
3. *e.g.* St. Thomas, 1a2æ, q.100, a.8 ad 3um; Cajetan l.c. 2; Suarez De legibus, lib. II, cap. 15, 20; Billuart, Tract. de legibus, Diss II, a.4 ad 1um.

in the examples given from the Old Testament. We have not gone into this de facto argument, first because it is necessarily too long for the place of Scotus in this dissertation ; secondly because exhaustive interpretations of these facts can be found in the sources we have indicated. We prefer rather to deal with the fundamental reasons behind the theory of Scotus.

Second Argument[1] *:* If these precepts of the Decalogue do not pertain to the Natural Moral Law as simply being in harmony with the principles of that law, but rather are necessary conclusions from those principles dealing with things necessarily good and necessarily bad, then the divine will is necessarily and simply determined to things other than itself just as the intellect is determined to understand the necessarily true.

Criticism : This determination can be understood in two ways : (*a*) as meaning that the divine will would be determined to will the existence of these things ; (*b*) meaning that the divine will would be determined as regards the goodness and malice of these things. The first sense is false for all being is the result of a free act of God. The second sense carries with it no inconvenience, as is evident from the fact that there are precepts, admitted by Scotus himself, dealing with things necessarily good and necessarily bad *e.g.* the first two precepts of the Decalogue. The sense of this determination is that the divine will cannot refuse to be in accord with the right and cannot be in accord with the wrong. Cajetan expresses this

1. Scotus, l.c. 4.

determination in God very well when he says : " sicut divinus intellectus naturaliter determinatus est ad Deum ipsum tantum intelligendum, et in se omnia naturaliter relucentia ; ita divina voluntas ad Deum ipsum tantum volendum, et in seipsa omnia naturaliter recta, qualia sunt hujusmodi, quæ non nisi in Deo sunt antequam ab ipso communicarentur "[2].

Third Argument[3] *:* In the things commanded or prohibited by these precepts under discussion, there is not a goodness necessary to the goodness of the final end, or necessarily leading to the ultimate end ; in the evils prohibited there is not a malice necessarily turning man away from the final end. If this good were not commanded the final end could still be attained and loved ; if the evil were not prohibited, the attainment of the final end would still be possible. Consequently these precepts cannot be necessary conclusions from the principles of the Natural Moral Law.

Criticism : This argument has a triple sense. (*a*) In these precepts there is not a goodness that has a necessary connection with the final end. In this sense the argument is false. The proof adduced in favor of it does not prove a contingent connection but merely shows that the end does not depend from the conclusions necessarily inferred from it ; just as from the fact that the principles are true without the conclusions it does not follow that the conclusions are not necessarily connected with the end or are not necessary in

1. Cajetan, in 1am2æ, q.100, a.8 3.
2. Scotus, l.c. 5 ; Frassen l.c. p. 94.

themselves, but only that the truth and knowledge of the principles do not depend upon the conclusions. (*b*) In these precepts there is not a goodness necessary to the existence and love of the final end. In this sense the assumption is true. But from this it does not follow that the conclusions are not necessary. (*c*) In these precepts there is not a goodness necessarily leading to the final end nor an evil necessarily averting from that end. In this sense the assumption is false. Just as in necessary conclusions there is a truth leading a posteriori to the first principles, so here there is a goodness in the conclusions leading necessarily a posteriori to the final end. The proof is a sophism which Cajetan calls the "sophism of the consequent"[1] *i.e.* if it is true it proves only that the conversion or aversion in regard to the final end does not depend solely from these things, but can be had also from other sources ; these conclusions lead to or avert from the end a posteriori. Yet as Cajetan says[2] these things commanded by the latter precepts of the Decalogue are so necessarily connected with the final end that conversion to these goods and aversion from these evils, at least in "preparatione animæ" is inseparable from the love of the final end.

So much for the arguments of Scotus. For a decisive refutation of his theory it is necessary to seek its foundation. Evidently Scotus agrees that the necessary principles of the Natural Moral Law and the necessary conclusions from these prin-

1. Cajetan, in 1am2æ, q.100, a.8 4.
2. Ib.

ciples cannot suffer dispensation even by the absolute power of God. *i.e.* those things necessarily connected with the final end do not allow of dispensation. The reason these precepts of the Decalogue can be dispensed, according to Scotus, is because they have no necessary relation to the final end, but only a relation of convenience, a relation depending on the will of God.

A closer scrutiny of this last statement will show us the real fallacy in the theory of Scotus. The precepts which Scotus says can be dispensed are those governing the relations of man with everything that is not God ; everything that does not refer directly to God has no necessary connection with the final end of man. But it is undeniably true (and we shall show this truth more exhaustively in treating of the obligation of the Natural Moral Law) that man has definite potencies that are determined, by *their very nature*, to their *own*, not to *any*, act ; if they are not so determined they have no reason for existence for a potency exists *for* its act. Similarly every act is determined, *by its very nature*, to its end ; otherwise it has no reason for existence, and there is no sufficient reason for any activity whatever ; moreover this end of the act must eventually be the final end, if it is not the final end and is not a means leading to that final end it is unintelligible as constituting the term of an action. All this follows from the very *nature* of the potency and the act ; and it is fundamentally true that all action and consequently all potency

flow from the composite *nature* of the agent acting—otherwise the idea of specific differences of natures is meaningless. Consequently when Scotus says that everything not directly referring to God has no necessary connection with the final end of man, he is denying the determined nature of potency and act, the doctrine of specific differences and ultimately the principle of finality and of sufficient reason.

OBLIGATION OF THE NATURAL MORAL LAW.[1]

In his tract on the Natural Moral Law St. Thomas does not treat of the obligation of the law. Perhaps the reason was that in the Thomistic notion, law is primarily a rule of order; the idea of obligation, while essential, is derivative, secondary. But this does not mean that the idea of obligation was overlooked, as is evident from the very derivation of the word "law" by St. Thomas from "ligare"—to bind[2]; it is also evident from the tracts of the Summa where this notion of obligation is touched upon, *e.g.* the treatment of the Decalogue[3]. Indeed the notion of obligation is a direct corollary from the notion of precept; granted a true precept, an obligation is ipso facto generated in him to whom the precept is given[4].

1. In treating this question we have adopted the solution offered by Fr. Garrigou-Lagrange in "Dieu" and Fr. Lehu in "Philosophia Moralis."
2. 1a2æ, q.90, a.1; conf. Ib. a.4.
3. Ib. q.100.
4. Quodlib. V, 19.

Nevertheless the solution of this question of obligation involves profound and careful reasoning. Its very profundity brings out all the beauty of the Thomistic conception of law as an act of reason, especially in reference to the Natural Moral Law. An appreciation of this beauty and irrefutable logic demands a very thorough conception of this solution, a comprehension of the very foundations on which it is based. We will accordingly start from the very sources of this solution.

Moral obligation is the result of a double necessity: namely the absolute necessity of an act in reference to an absolutely necessary final end. This necessity binds the will but does not destroy the liberty of the will, as it leaves the physical potency of acting or not acting; *i.e.* it binds the will in as much as the intellect proposes the end and the means to the will, there is no question of direct action or of coercion of the will[1]. St. Thomas speaks of this source of the moral obligation when he says: "... præceptum importat rationem debiti; debitum autem aliquod est dupliciter. Uno modo secundum se; et hoc modo finis est debitus in unoquoque negotio; medicus enim propter se debet quærere sanitatem. Alio modo est aliquod debitum propter aliud; scilicet id sine quo non potest perveniri ad finem; sicut medicus debet indicere diaetam infirmo, sine qua non potest sanari. Illud vero quod ordinatur in finem ut melius aut facilius finem con-

1. Lehu, Philosophia Moralis, p. 220.

sequatur; si sine hoc aliqualiter possit haberi finis, non habet rationem debiti "[4].

Obligation consists formally in this real transcendental relation to the last end. It is defined as follows; " Proprietas actuum humanorum secundum quam dicuntur necessario ponendi vel necessario vitandi per respectum ad finem ultimum "[1].

St. Thomas explains that the final end is as necessary in the moral order as is the first cause in the physical order and the first principles in the logical order. The participation of this final end is the desirability (desiderari vel appeti) of the means and the secondary ends. Without this final end volition is inexplicable. If every means were wished only as a means, every end only as a means and not for itself, the process of volition would never start and consequently there would be no activity, for it is the end which draws the agent to action. Without the end there is no reason for willing the means; and as soon as an end is willed for itself alone, it is the final end, as is apparent from the very name—final, *i.e.* not directed to anything else[2]. This last end is implicitly and necessarily in every natural activity; otherwise there would be no activity. Every created being tends towards the final cause as it depends from the first cause[3]. It dominates every action like the principle of identity dominates everything real

4. Quodlib. V, 19.

1. Lehu, l.c., p. 221.

2. De Verit, q.22, art. 2 et 5; V Metaph. lect. 2; 1a2æ, q.91, a.2 ad 2um; Ib. q.1, a.2; Ib. a.4; Ib q.8, a.2; Ib. q.17, a.9 ad 2um.

3. De Verit. q.22, a.2.

both actual and possible[5].

We have already shown that this final end, as it is in reason (finis in intentione) is really the rule of human actions, is the first principle from which these actions proceed[1]. Here we are speaking of the final natural end of human nature; what does this consist in? The final end of every nature is the happiness of that particular nature; or, in more metaphysical terms, the final end is the perfection of the form of that nature, the perfect realization of the nature[2]. Since the form of human nature is the rational soul, man's final end will consist in the perfect realization of this form; moreover since the act of the possible intellect, the act of understanding, is the highest act of this form and is precisely the act that differentiates man from the other animals[3], his happiness or his final end consists in this act which is the highest perfection of his form. In other words, man's final end is a rational good (bonum rationis)[4].

This rational good appears to man's *natural* reason as desirable in itself, *i.e.* as " bonum honestum "; not something to be desired because it is useful (bonum utile) or as a mere source of pleasure (bonum delectabile). And it is so proposed to the rational appetite which *naturally* inclines to it. This appeal to reason, and con-

5. Garrigou-Lagrange, Dieu, p. 311.

1. vid. supra Chap. I, p. 9 seq.

2. II Sent. d. 39, q.2, a.1; conf. supra Chap. I, p.9 seq.

3. Contra Gent. lib. II, cap. 60.

4. III Ethic. lect. 10; Quest. Disp. De Anima. a.16 corp et ad 1um; 1a, q.62, a.1; 1a2æ, q.3, a.5; Ib. q.4, a.5 corp. et ad 3um; Ib. arts. 6, 7, 8; 2a2æ, q.47, arts 6 et 7; De Verit, q.22, a.5.

sequently to the rational appetite, is solely on the grounds that this rational good is the normal perfection of man[1]. Moreover this rational good appears as the *necessary* end of human activity its final end[2] and consequently obligatory. And so the natural reason issues its precept, commanding man to act for this good; with the natural correlative of a command, namely obligation. This is the proximate rule of morality[3].

This precept of reason is not free but natural; nevertheless it is eminently reasonable, flowing as it does from self-evident, yes, from first principles[4]. Asked why this obligation, the reason justifies its command by the principle of finality "Every agent acts for an end"[5]. Indeed the command "do good, avoid evil" is nothing more than a particularized statement of "act for your end"; and this is justified on the principle of finality which we have just quoted. This principle of finality is a first principle, a self evident truth, whose denial includes the denial of the principles of sufficient reason, of contradiction and of identity, with which it is intimately connected. In a word, this principle has ontological value.

We have said that the principle of finality is a first principle, a self-evident truth. This is easily understood if we grasp the full meaning of the terms of this principle. By "end" is here under-

1. De Verit. q.22, a.5.
2. vid. p. 133, note 4.
3. III Sent. d. 37, q.1.a.1; II Sent. d. 42, q.2, a.5; 1a2æ, q.90, a.1; Ib. q.95, a.2; Ib. q. 100, a.1.
4. De Verit. q.22, a.5, ad 3um; 1a2æ, q.94, a.2.
5. 1a, q.44, a.4; 1a2æ, q.1, a.2.

stood not merely the term of the action but the reason for placing the action (causa cujus gratia) *i.e.* a determined perfection, suitable to the agent placing the action, appearing to him as his good. Every nature has a specific activity, that is, it works for a determined end, a determined perfection suitable to the nature and indeed completing it, and this specific activity flows from the specific nature itself[1]. Since this is a determined perfection and a determined suitability to the agent—as it plainly is, indeed must be, if specific differences mean anything—it is not accidental but ordained. That is, the nature tends more to this perfection than to another. Otherwise there would be no reason why this act should be placed by this particular nature any more than any other act; there would be no reason for specifically different activity from specifically different natures[2]. St. Thomas puts this very briefly and clearly when he says: "omnia agentia necesse est agere propter finem. Causarum enim ad invicem ordinatarum si prima subtrahatur, necesse est alias subtrahi. Prima autem inter omnes causas est causa finalis . . . Agens autem non movet nisi ex intentione finis: si enim agens non esset determinatum ad aliquem effectum, non magis ageret hoc quam illud. Ad hoc ergo quod determinatum effectum producat, necesse est quod determinetur ad aliquid certum quod habet rationem

1. 1a, q.44, a.1; 1a2æ, q.1, a.2; De Verit. q.22. a.1 corp. et ad 3um; ad 4um; Ib. art. 5.
2. 1a2æ, q.1, a.2; 1a, q.44, a.4; De Ver. q.22, a.1 corp et ad 9um.

finis"[1] In a word an end is the only explanation of activity ; a determined end is the only explanation of a determined activity—a truth that is immediately apparent to the intellect. Indeed this principle is taken for granted in our daily lives, for instance the very commonplace question, "why was this done" on seeing an action or an effect of an action, is nothing more than the application of this principle.

In the second place we have said that a denial of this principle is a denial of the principle of sufficient reason. This can be shown very easily. The determination and determined suitability cannot be produced in the effect unless they are in some way in the cause ; this is merely applying the axiom "nemo dat quod non habet." This determination and determined suitability cannot be in the cause formally and actually as is self-evident ; but only virtually, in as much as the efficient cause tends towards this effect rather than another, in as much as the cause was ordained to the effect, *i.e.* acted for that end. Otherwise we have this determination and determined suitability to the agent existing without any sufficient reason for their existence[2].

Not only the effect, but the action itself is essentially intentional, or ordained to an end. Without this ordination not only the effect but the act itself has no sufficient reason for its existence ; the act exists for the end or it has no

1. 1a2æ, q.1, a.2.
2. 1a, q.44, a.4 ; De Ver. q.22, a.1.

reason for existence[1]. We may go even further and say that the potency eliciting the act is conceivable only as essentially ordained to its act ; it is for the act or it has no reason for existing. Without this ordination, we have a potency existing without a sufficient reason for its existence[2]. Our third statement, that the denial of the principle of sufficient reason is a denial of the principles of contradiction and of identity needs no explanation[3].

Let us apply this doctrine to the problem before us. The command of the natural reason "do good and avoid evil" is nothing more than the command "act for your end" since, as we have already shown, "good" here means conducive to man's end and "evil" means whatever detracts from the attainment of that end[4]. Now the rational appetite of man—the will—is a potency whose object is the rational good[5] *i.e.* the end of man. Consequently it is essentially ordained to its act, which act is in turn essentially ordained to the determined effect which is the object of the potency —the rational good of man. So that this rational appetite or will which is capable of willing the rational good or end of man, and is moreover essentially ordained to this act and object, cannot refuse to will this end of man without losing the very reason of its existence, without going contrary to the essential order of things, without losing its conformity to right reason. This is the

1. 1a, q.44, a.4 ; De Verit. q.22, a.1 ; 1a2æ, q.1, a.3.
2. 1a2æ, q.1, a.1.
3. confer Garrigou-Lagrange, p. 170 seq.
4. confer supra, p.104.
5. 1a2æ, q.1, a.3

proximate source of the obligation of the Natural Moral Law[1].

This position is briefly and clearly proved by Fr. Lehu: "Fundamentum relationis est causa ex qua exsurgit relatio. Atqui causa proxima obligationis actus est quia objectum actus essentialiter dicit connexionem necessariam cum fine ultimo.. in quo consistit ordo essentialis. Ergo fundamentum proximum obligationis moralis est ordo essentialis rerum[2].

This essential order of things, or more particularly the rational good of man, is the proximate source of the obligation of the Natural Moral Law. It is a secondary but true cause in the moral order[3] consequently it produces a true effect, a true obligation. It does not presuppose a knowledge of God for its efficacy, since it is a self-evident truth, a first principle having ontological value, just as are the principles of sufficient reason, of contradiction and of identity which certainly do not suppose a knowledge of God for their efficacy. Rather this principle can lead us to a knowledge of God since it contains this notion analytically and implicitly; and such a demonstration is contained in St. Thomas' "quarta via" in proving the existence of God[4].

But if it is a cause of this obligation, it is not

1. confer. Lehu. l.c. p. 250; Garrigou-Lagrange, Dieu, p. 185 seq; 308 seq.
2. Lehu, l. c. p. 250.
3. 1a2æ, q.19, a.4 corp; ad 1um, ad 2um; Ib. q.71, a.6 corp et ad 4um; q.87, a.1; q.95, a.2.
4. confer Garrigou-Lagrange, l.c. p. 308 seq.

the whole cause. It is a secondary cause and consequently acts subordinately to and dependently from the first cause—the Eternal Law—from which it derives its whole causality. Just as in the physical order, secondary causes depend on the first cause and derive their causality from this first cause, yet are real causes and produce real effects, so in the moral order, the essential order of things is a true secondary cause acting under and dependent upon the first cause[2]. If the first cause should cease to exist, this secondary cause would lose all causality, *i.e.* it could produce no obligation; and it is only in reducing this undoubted causality of the secondary cause to the first cause that it is entirely explicable and intelligible. Thus the proximate source of this obligation is the essential order of things as understood by the natural reason and proposed to the natural will; the supreme and first cause of this obligation is the Eternal Law.

It must be noted that it is quite a different question to ask what is the full reason for this obligation, what is its complete explanation and to ask does a man know he is obliged. The mere knowledge that one is obliged does not of itself include a knowledge of the existence of God, except analytically and implicitly. It is sufficient, to manifest the obligation, to show its existence by its effects, *e.g.* remorse of conscience, and to establish its immediate foundation, namely, the

2. 1a2æ, q.19, a.4; Ib. q.71, a.6 corp. et ad 4um; Ib. q.87, a.1 Ib q.74, a.7; 1a, q.105, a.5; Cajetan in 1am2æ, q.71, a.6 9.

essential order of things, more explicitly the rational good of man. From there we are led to search for the supreme source of this obligation, its full explanation—the Eternal Law[1].

The Thomistic doctrine excludes the necessity of an explicit knowledge of God for the constitution of moral obligation, considered precisely in itself, in its essence as obligation of the Natural Moral Law. It does not deny that every man has a knowledge of God, at least in a confused way; in fact St. Thomas insists on this again and again and it is hard to understand how it could be otherwise[2]. It is also evident from the explanation we have just given that the Thomistic doctrine insists that this very notion of obligation, considered in its proximate source, contains the notion of the existence of God analytically and implicitly, since from this principle of finality, on which the obligation is based, we can demonstrate the existence of God. The question as to the necessity of the explicit knowledge of God for the constitution of morality is rather one of theory than of fact; but one which must nevertheless be answered clearly and logically if we are to have a correct notion of the Natural Moral Law.

From this explanation of the obligation of the Natural Moral Law, it is evident that the obligation of this law, like the law itself, is really natural. It is in no sense extrinsic, imposed on man from without, since its proximate source

1. confer Garrigou-Lagrange, Dieu, p. 190 seq; p. 312 seq.
2. *e.g.*. Ia. q.2, a.1 ad 1um.

is the natural reason of man himself. Yet it is not the empty autonomy of Aristotle and Kant for it is the obligation of a divine law, not a law of man; its supreme source and sole sufficient explanation is in the Eternal Law of which the Natural Moral Law is a participation and expression.

NATURAL MORAL LAW, SYNDERESIS AND CONSCIENCE.

We have already shown that the essence of the Natural Moral Law consists in the natural inclinations, the light of reason and the first principles of practical reason[1]. Synderesis and conscience are the steps which bring this law into concrete realization and effectiveness. Synderesis is the habit of the practical intellect by which it knows the first principles immediately they are proposed[2], that is, it is a natural disposition of the intellect to recognize these principles as soon as they are proposed[3]. Consequently it is, in one sense, innate, it does not have to be acquired[4]; but in another sense, it can be said to be acquired, in as much as the knowledge of the terms of these principles is acquired through the senses and of course the terms of these principles have to be recognized before the truth of the principles

1. vid. supra p. 88 seq.
2. Ia, q.79, a.12; II Sent. d. 24, q 2, a.3; De Ver, q.16 a.1,
3. Pegues, Traite de L'Homme, in Iam, q.79, a.12.
4. De Ver. q.16, a.1 ad 14; II Sent. d. 24, q.2, a.3; III Sent. d. 33, q.2, a.4 sol. 4.

themselves can be seen[9]. Sylvius states this point clearly: "Probabilius sentire videntur qui dicunt, eam partim esse a natura, partim ex acquisitione: a natura quantum ad lumen intellectuale; ex acquisitione quantum ad species ex sensibilibus acceptas conformiter his B. Thomas quæ (II Sent. d.24, q.2, a.3) scribit synderesim esse habitum, qui est quodammodo innatus menti nostræ ex ipso lumine intellectus agentis sicut et habitus principiorum speculativorum; ut omne totum est majus sua parte et hujusmodi, licet ad determinationem cognitionis eorum sensu et memoria indigeamus"[1].

From this it is evident that synderesis is not the reasoning faculty itself but a habit of that faculty. Nor is it any essential part of the Natural Moral Law; rather the active element of the essence of the Natual Moral Law—the first principles of the practical reason—is the object of synderesis.[2]

Conscience, on the contrary, is not a habit but an act[3]; and an act of the practical intellect corresponding to the act of judgment of the speculative intellect[4]. It is a conclusion from the universal principles furnished by synderesis and a particular fact[5]; and this conclusion does not oblige of its own power[6] but by the power of its

9. 1a2æ, q.51, a.1; IV Metaphy.lect. 6; De Ver. q.11, a.1.
1. Sylvius in 1am, q.79, a.12.
2. 1a2æ, q.94, a.1 ad 2um.
3. II Sent. d.24, q. 2 a.4.
4. Ib. ad 2um; De Ver. q.17, a.1 ad 4um.
5. II Sent. d.24, q.2, a.4 corp et ad 2um; Ib. d.39, q.3, a.2.
6. Ib. a.3 ad 3um.

principles, *i.e.* the principles known through the habit of synderesis, and ultimately by the power of the Eternal Law[1].

We can now see quite easily the interrelation of synderesis, conscience and the active element of the Natural Moral Law—for of course there is no difficulty concerning the inclinations or the light of reason itself. St. Thomas states this relation clearly and briefly: "Et secundum hunc modum patet, qualiter differant synderesis, lex naturalis et conscientia: quia lex naturalis nominat ipsa universalia principia juris, synderesis vero nominat habitum eorum seu potentiam cum habitu (The Summa drops the idea of "potentia" altogether and limits synderesis strictly to a habit[2]); conscientia vero nominat applicationem quamdam legis naturalis ad aliquid faciendum per modum conclusionis cujusdam"[3].

INNATE CHARACTER OF THIS LAW.

The traditional doctrine that the Natural Moral Law is innate, has been a stumbling block especially for thinkers outside the Church. The true Thomistic doctrine on this matter not only upholds the traditional doctrine but removes the foundation of most of the objections urged against this traditional doctrine by a clear explanation of the meaning of this term "innate."

St. Thomas certainly held that the Natural

1. 1a2æ, q.74, a.7; Ib. q. 19, a.4.
2. *e.g.* 1a, q.79, a.12.
3. II Sent. d.24, q.2, a.4, sol. circa finem.

Moral Law is innate. He says this explicitly[1]; and time and time again he uses equivalent expressions such as "lex impressa a Deo[2], and "lex indita"[3]. As regards the first two essential elements of this law—the natural inclinations and light of reason—there is no difficulty about their being strictly innate and this is the doctrine of St. Thomas[4]. The real difficulty appears when we say that the third essential element—the proposition of reason—is also innate.

St. Thomas says quite plainly that these first principles or propositions of reason are innate[5]; yet this cannot be taken strictly or it would be sheer Platonism, totally opposed by St. Thomas and Aristotle and expressly rejected by St. Thomas[6]. The key to the solution of this difficulty is given by St. Thomas in the use of another expression in describing these first principles *i.e.* when he says they are naturally known (naturaliter nota)[7]. St. Thomas links these two ideas together in the Commentary on the Books of Sentences[8] when he says of these principles "indita erant in naturali cognitione"; and he thus shows clearly just what he regards as the

1. 1a2æ, q.94, a.6 Sed Contra; Ib. q.90, a.4, ad 1um.
2. IV Sent., d.33, q.1, a.2 corp et ad 3um; III Sent. d.37, q.1, a.2, sol. 1 ad 3um; Ib. q.2, a.3; In Job, cap. 23, lect. 1.
3. 1a2æ, q.106, a.1 ad 2um; IV Sent. d. 33, q.1, a.1.
4. vid. supra Chap. IV, p. 88 seq.
5. Supplem. q.65, a.1; IV Sent. d. 33, q.1, a.1.
6. De virtutibus in commune, art. 8; I Sent. d. 39, q.2, a.2 ad 4um.
7. 1a2æ. q.17, a.9 ad 2um; 2a2æ, q.47, a.6; De Ver, q.24, a.1, ad 20um; De virtutibus in commune, a.8; De Ver, q.18, a.4.
8. III Sent. d. 37, q.1, a.1 ad 3um.

manner in which these propositions are innate in or impressed on man, namely, *naturally*.

It is evident from Thomistic epistemology that it is not natural for a man to have full fledged propositions of reason from the moment of birth, as St. Thomas insists: " . . . in principio (intellectus) est 'sicut tabula rasa, in qua nihil est scriptum' . . . Quod manifeste apparet ex hoc quod in principio sumus intelligentes solum in potentia, postmodum autem efficimur intelligentes in actu"[2]. St. Thomas shows us the real sense of this word "natural" when he says: "similiter etiam dicendum est de scientiæ acquisitione; quod præexistunt in nobis quædam scientiarum semina, scilicet primæ conceptiones intellectus, quæ statim lumine intellectus agentis cognoscuntur per species a sensibilibus abstractis, sive sint complexa, ut dignitates, sive incomplexa, sicut ratio entive, et unive, et hujusmodi, quæ statim intellectus apprehendit. Ex istis autem principiis universalibus omnia principia sequuntur . . . "[3].

Cajetan makes this idea startlingly clear when he says: "Casualitas deinde male attributur. Quoniam quæ ex frequenti usu proveniunt, casu neqaquam fiunt: constat autem quod universale, quod est proprium motivum intellectus, ex multis sensationibus, memoriis, et experientiis colligitur, ... Non igitur casu, sed ex frequentioribus actibus sensuum circa hoc magis quam circa illud,

2. 1a, q.79, a.2.
3. De Veritate, q.11, a.1.

provenit quod prius intelligatur hoc quam illud. Rursus quia frequentius sensus moventur ab universalissimis, utpote cum omnibus sensatis concurrentibus ; non casu, sed ex ordine naturæ est, quod primo moveatur intellectus a communissimis ; "[1].

Sylvius completes the picture by showing what part extrinsic forces can play in this natural knowledge : " porro quod quispiam ad rationis usum perveniat, multum facit bona dispositio organorum seu partium sensitivarum tam interiorum quam exteriorum ; sed insuper requiruntur species sensibiles ; quarum tamen acquisitio sola non sufficit sed etiam necessaria est illarum ordinatio ; et quoniam ad eam ordinationem juvat doctrina et educatio vel institutio ; hinc est quod etiam æquales in naturalibus, non in æquali tempore perveniat ad usum rationis, sed plerumque citius ad eum veniunt pueri bene educati, quam qui inter agrestes vel rustices viventes degunt "[1].

The sense then of St. Thomas when he says the Natural Moral Law is innate is that strictly speaking, two essential elements of that law are innate—the inclinations and the light of reason ; as regards the third element —the proposition of reason—the word is taken in a somewhat broader sense. In this last case it indicates that every man, by the very nature of his intellect, immediately and without any reasoning, knows the truth of these propositions once their terms are understood through the help of acquired sense knowledge, memory and so on.

1. Cajetan in 1am, q.82, a.4.
1. Sylvius in 1am2æ, q.89, a.6 ad 1um.

CHARACTERISTICS OF THE NATURAL MORAL LAW.

Ordinarily four characteristics are attributed to the Natural Moral Law. It is said to be universal, that is objectively, it is applied to all men ; it is said to be evident which is really saying that it is subjectively universal ; it is called necessary because all men need its guidance ; and it is called immutable because it does not change. With the exception of the characteristics of necessity, we have already treated all of these topics thoroughly when explaining the nature, scope and stability of the precepts of the Natural Moral Law[1]. The characteristic of necessity has been treated in explaining the meaning of the phrase of St. Thomas saying that the Natural Law is a participation of the Eternal Law[2]. Consequently, as these topics are only corollaries of the essential doctrine already given, it will not be necessary to explain them at greater length.

CRITICISM OF SUAREZ ON NATURAL LAW.

Suarez places the Natural Moral Law precisely in the act of reason, judgment[3] ; but he admits that the light of reason may be called the Natural Moral Law and in another place, calls it the Natural Moral Law " in actu primo "[4]. Finally he admits that the rational essence, in as much as things are naturally convenient or are not convenient to it, may be said to be the foundation of

1. vid. supra p. 104 seq.
2. vid. supra Chap. II, p. 37-43.
3. vid supra Chap. III, p. 66.
4. Ib. p. 66 and 70.

"natural honesty".[1] Comparing this superficially with the exposition we have just given of St. Thomas' teaching on the Natural Moral Law, there would seem to be a remarkable resemblance between the two, even though they started out from general notions of law that were opposed. A closer examination of the meaning of Suarez makes it evident that this resemblance is only apparent. We might sum up the most important points of opposition in the following propositions:

NATURAL MORAL LAW.

St. Thomas.	*Suarez.*
1. Consists essentially in the proposition of natural reason as including the light of reason and the natural inclinations.	1. Consists essentially in the act of practical reason—judgment.
2. Human nature, considered as acts are convenient or inconvenient to it, is an essential part of the Natural Moral Law.	2. Human nature in this sense is the foundation of "natural honesty."
3. The precept or proposition of natural reason is a true secondary cause producing a real effect, sc. a real obligation.	3. The human judgment cannot cause an obligation; it can only manifest this obligation which is the result of an act of the will of God.

1. vid supra Chap. III, p. 66.

St. Thomas.	*Suarez.*
4. The Eternal Law—an act of divine reason—is the cause of *all* morality.	4. This act of the will of God — Eternal Law—supposes in human acts a certain necessary honesty or malice.
5. The Eternal Law and its participation the Natural Moral Law are the cause of the whole obligation, which is divine.	5. This act of the will of God joins to this necessary honesty or malice a special divine obligation.
6. In the hypothesis that God never issued this precept which is the Eternal Law and the Natural Moral Law, there would be no honesty or malice; for these consist formally in the accord or discord of human acts with a law or precept.	6. In the hypothesis that God never prohibited or commanded, we could conclude that the natural honesty or malice of human acts does not consist formally in the discord or accord with any proper law or precept.
7. In the absence of this divine precept these acts have no morality.	7. In the hypothesis of the absence of this act of the will of God, these acts are evil but not prohibited.

St. Thomas.

8. Human act has goodness or malice according as it harmonizes with right reason considered as the secondary and proximate rule of morality, subordinate to and dependent on the first rule—the Eternal Law.

9. This morality of human acts according as they harmonize with right reason is the morality established by the Natural Moral Law, which is a divine law.

10. Habet autem actus humanus quod sit malus ex eo quod caret debita commensuratione. Omnis autem commensuratio

Suarez.

8. Human act has goodness or malice from its object precisely considered as it harmonizes with right reason; from this aspect it may be called evil, a sin and culpable without reference to a proper law.

9. Besides this culpability (from lack of harmony with reason) a human act has a special reason of good or evil "in ordine ad Deum" added by divine law. In this way a human act is called a sin or "culpa apud Deum" in a special way, by reason of the transgression of God's law.

10. It is in this way that St. Thomas, 1a 2æ, q.71,a.6 ad 5um, distinguishes sin as against reason and as an offence against God; thus in this case the act would be evil, morally a sin and culpable, not however theologically, "in ordine ad Deum" (*i.e.* in case where there was no command or prohibition from the part of God).

cujuscumque rei attenditur per comparationem ad aliquem regulam; a qua si divertat, incommensurata erit. Regula autem voluntatis humanæ est duplex: una propinqua, et homogenea, scilicet ipsa humana ratio; alia vero est prima regula, scilicet lex æterna quæ est quasi ratio Dei (1a2æ, q.71, a.6 corp) . . . " a theologis consideratur peccatum præcipue secundum quod est offensa contra Deum; a Philosopho autem morali, secundum quod contrariatur rationi" Ib. ad 5um.

11. Natural Moral Law prohibits everything that is per se evil or inordinate in human acts; without this prohibition these acts would have no morality.

11. The Natural Moral Law prohibits everything that is per se evil or inordinate in human acts; without this prohibition these acts would not have ("ut sic dicam") consummate and perfect "ratio culpæ et offensæ divinæ."

St. Thomas.	*Suarez.*
12. The Natural Moral Law presupposes no goodness or malice; goodness or malice is the result of the obedience or disobedience of this law.	12. This is the only law (*i.e.* the Natural Moral Law) which presupposes goodness and malice; other laws make this moral goodness and malice by their statutes.

We might consider each of these propositions separately and criticise them, for example the idea of a "natural honesty" preceeding all law is an evident contradiction in terms, since a morality would thus be constituted without any norm or rule of morality and morality precisely consists in the commensuration with a rule of morality. But the falsity of these propositions of Suarez is too evident to need indication.

It would be much more profitable to seek the foundation of these differences between Suarez and St. Thomas, and consequently the foundation of the errors of Suarez. After all these are not merely gratuitous statements on the part of Suarez; they are the logical conclusions from the principles he has laid down not only on the Natural Moral Law, but ultimately from his theory of the Eternal Law and of law in general, as are also the propositions of St. Thomas the logical conclusions from his principles concerning law, the Eternal Law and the Natural Moral Law.

Suarez, as we have seen, placed the Natural

Moral Law, as it is in the legislator in an act of the will of God to oblige men; as it is in the subjects of that law, he placed it in the act of human judgment. St. Thomas, on the contrary, placed the Natural Moral Law, as it is in the legislator, in the precept of the divine reason; as it is in the subject of the law, he placed it in the precept of the natural reason of man, understanding the natural reason as we have explained it, *i.e.* including the natural inclinations and light of reason.

Applying the theory of Suarez to moral acts, the difficulty of the essences of these acts appears at once. Moral acts are realities and consequently have, like physical realities, necessary essences, *i.e.* essences which cannot be changed. Since these essences depend, not on the will, but on the intellect of God and, according to Suarez, the law is an act of the will of God, it is evident that the law as interpreted by Suarez cannot be the cause of the moral essences of human acts. That this moral essence is independent of all law and is supposed by the Natural Moral Law is the logical conclusion reached by Suarez himself.

According to St. Thomas the essences depend on the intellect of God in this way: (*a*) the metaphysical essences depend on God's simple knowledge of His essence as imitable—"scientia simplicis intelligentiæ—dealing only with things as possible[1]; (*b*) the physical essences, *i.e.* of things actually existing at some time, depend directly

1. 1a, q.15, a.2 et 3.

on the Eternal Law[2]; (c) the moral essences of human acts likewise depend directly on the Eternal Law[3]. Thus St. Thomas, placing the Eternal Law, and consequently the Natural Moral Law as it is in the legislator, in the precept of divine reason, did not, in fact could not encounter this difficulty; he was forced to conclude logically that all morality is caused by the Natural Moral Law and ultimately by the Eternal Law. These laws suppose nothing in the moral order; they establish that order.

Again Suarez agrees that law as it is in the subject can be nothing but a thing of reason; but he also maintained that the act of reason could not be preceptive, could have none of the causality which is proper to law, because this causality, this preceptive power, is invested in the will. Consequently the Natural Moral Law as it is in its subjects, must be something of reason; but since reason cannot command, the act of reason must be merely a manifestation of an act of the will commanding and this will is the divine will to oblige men. So that this Natural Moral Law, precisely as possessing preceptive power, is something extrinsic to man.

St. Thomas, maintaining that precept is essentially an act of reason and not of will, concluded that the Natural Moral Law as it is in its subjects, is a true, though a secondary cause, producing a real effect; consequently the Natural

2. Ib. art. 3 et supra p. 38.
3. 1a2æ, q.71, a.6 corp.

Moral Law, considered precisely as preceptive, in its precise character as law, is intimately intrinsic to man. The precept of reason is for St. Thomas a cause, not a mere manifestation of the will of God as it is for Suarez. St Thomas places two causes, each complete in its own order, each in its own order causing the whole obligation; Suarez places two partial causes (human nature and Natural Moral Law) neither of which is the cause of the whole morality or obligation.

Since these points of opposition we have noted above are logical consequences of the opinion of Suarez and St. Thomas on the subject of the Natural Moral Law, they constitute in themselves an adequate judgment of these different opinions, indeed an eloquent judgment. We may point out in conclusion that the striking opposition of these consequences, and consequently of these two opinions, springs from the original question as to whether precept or "imperium" is an act of reason or of will. This fundamental question, with all its consequences, some few of which we have seen, represents the difference between the rationalism of St. Thomas and the voluntarism—a decidely popular theory in modern statecraft—of Suarez and his school.

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